

ROLL CALL ANALYSIS OF THE LOUISIANA  
PURCHASE LEGISLATION, 1803-1804:  
THE UNITED STATES SENATE

By

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## TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION . . . . .	1
II. HISTORY OF THE LOUISIANA PURCHASE . . . . .	4
III. RATIFICATION OF THE LOUISIANA PURCHASE TREATY .	28
IV. EXTENSION OF SLAVERY INTO LOUISIANA . . . . .	55
V. LOUISIANA TERRITORIAL GOVERNMENT . . . . .	81
VI. CONCLUSION . . . . .	108
BIBLIOGRAPHY . . . . .	111

# LIST OF TABLES

Table	Page
I. Louisiana Purchase: Senate Voting Blocs . . . .	35
II. Louisiana Purchase Voting Blocs: Party Alignments . . . . .	41
III. Louisiana Purchase Voting Blocs: Sectional Alignments . . . . .	42
IV. State Designations . . . . .	43
V. Extension of Slavery: Voting Blocs . . . . .	61
VI. Extension of Slavery: Party Alignments . . . .	66
VII. Extension of Slavery: Slave/Free State Alignments . . . . .	67
VIII. Extension of Slavery: Sectional Alignments . . . . .	68
IX. Territorial Government: Voting Blocs . . . . .	87
X. Territorial Government: Party Alignments . . .	94
XI. Territorial Government: Slave/Free State Alignments . . . . .	95
XII. Territorial Government: Sectional Alignments . . . . .	96
XIII. Territorial Government: Republican Party Sectional Alignments . . . . .	97

## LIST OF FIGURES

Figure	Page
1. Map of Louisiana . . . . .	12
2. Map of Old Southwest . . . . .	13

## CHAPTER I

### INTRODUCTION

The political controversy involving Louisiana started at the birth of the new American republic and did not end until Louisiana became a state in 1812. Until 1803, American commerce in the Mississippi Valley and the definition of the exact territorial extent of Louisiana concerned the United States. The acquisition of Louisiana by the United States in 1803 did not resolve these matters, though, as Congress had to make difficult decisions on how to govern this new land. The years to statehood in 1812 were spent refining the legislation of 1803-1804 so that American institutions with a Creole flavor could become established and accepted by the inhabitants. This thesis examines those votes in the Senate, 1803-1804, concerning the assimilation of Louisiana into the United States. Analysis of the statutes enacted to effect this assimilation demonstrates that while party affiliation was still paramount in the Senate, there were serious sectional divisions regarding the nature of the assimilation.

Guttman scaling of Senate roll calls on the acquisition and administration of the territory of Louisiana has been used to reveal party and sectional divisions. Roll call

analysis can provide a more comprehensive view of partisan alignments than previous interpretations based on evidence left by an articulate minority. Previous historical studies and Everett S. Brown's Constitutional History of the Louisiana Purchase in particular, provided a basis for interpretation of the Senate's role in making Louisiana a part of the United States. All of these studies, however, looked at individual issues related to the governing of the territory rather than the whole of the Louisiana legislation of 1803-1804. This thesis examines all legislation regarding Louisiana from the ratification of the Purchase Treaty to the organization of the Louisiana territorial government. This thesis concentrates on the Senate because that body recorded more roll calls on more issues involving Louisiana and the Senate furnished more extensive recorded debates on those issues than did the House of Representatives.

This thesis employs Guttman scaling of Congressional roll calls. Simply put, Guttman scaling uses a statistical method in which all the roll calls on a specific issue are compared to each other. The result places individual senators into voting blocs based on how closely they voted with other senators. When thus ranked, patterns emerge which can then be analyzed on the basis of political party, section, or personal background. One can examine voting patterns that might not be readily seen from individual roll calls. A more comprehensive treatment of procedures used in



Guttman scaling is outlined in Lee Anderson, Meredith W. Watts, and Allen R. Wilcox, Legislative Roll Call Analysis (Evanston, Illinois: Northwestern University Press, 1966).

These roll calls show that party affiliation was the primary factor in determining voting behavior. Within the Republican party, sectional affiliation further defined how its members would vote. In the Federalist party, aberrations in party solidarity were based more on personalities than on section. Voting on the ratification of the Louisiana Purchase Treaty mostly followed party lines. The Republican Party was wholly unified while the Federalists split between hard-line Federalists and those willing to cooperate with the opposition in acquiring Louisiana for the United States. The issue of extension of slavery into Louisiana divided both parties along slave/free state lines, for senators representing slave states opposed placing limits on slavery while those from free states supported such limits. New England Federalists supported a liberal (democratic, representative) territorial government for Louisiana along with Western Republicans. Southern and New England Republicans sought a more restrictive (federally appointed) territorial government for the area. Though party affiliation among the senators was still supreme, signs of divisions between slave and free states, especially on the issue of slavery, could be seen at this early date in the nation's history.

## CHAPTER II

### HISTORY OF THE LOUISIANA PURCHASE

Long before its purchase by the United States in 1803, Louisiana had been an object of interest by several European powers, most notably Spain and France. Spanish, French, and English vessels explored the area around the Mississippi delta for some time before the establishment of any actual settlements. The French first claimed the territory constituting Louisiana, though the Spanish, close by in Florida, disputed such assertions. With other more important colonies to oversee, the English did not attempt to set up posts in the area.<sup>1</sup>

Despite Spanish explorations in the area, René Robert Cavelier, Sieur de La Salle, landed in the lower Mississippi Valley in 1682 to claim the land for France, naming it Louisiana after the French king, Louis XIV. Later French claims included most of the Mississippi watershed. Adventurers set up small trading posts, but made no real attempt to establish settlements. Not until the arrival of the LeMoyne brothers did efforts to colonize Louisiana actively come about.<sup>2</sup>

Armed with royal authority and little financial backing, Pierre LeMoyne, better known to history by his

title as the Sieur d'Iberville, and his brother Jean Baptiste LeMoyne, the Sieur de Bienville, mounted an expedition in 1699 to form the first settlement in Louisiana, at what later became Mobile, Alabama. They hoped that a French presence on the Gulf Coast would halt the expansion of Spanish power in the area and that Louisiana could provide new economic opportunities for France in the Western Hemisphere. Bienville became the dominant force in colonization during the next thirty years, pursuing his dream of building up the colony. His brother, Iberville, then took over before both fell out of favor with Court officials back home.<sup>3</sup>

The new settlements in Louisiana failed to grow for reasons comparable to those that plagued early English settlements in Virginia. Most early settlers represented adventurers from France and fur traders from French Canada who did not show an interest in establishing permanent French outposts. The local government was kept in constant turmoil by infighting between Bienville and his subordinates. Efforts to encourage French peasant families to immigrate never succeeded.<sup>4</sup>

As Mobile lay too close to Spanish Florida for security, Bienville founded New Orleans in 1718 to provide a new port for French commerce in the area. Agents in France persuaded families to immigrate, providing a more stable base on which to build a colony. From 1720 on, after years of unsuccessful attempts at colonization, the French secured

a permanent place in the Mississippi Valley. Unfortunately, this new stability provided the opportunity for the envious enemies of the LeMoynes in France to conspire to replace them with more cooperative colonial leaders.<sup>5</sup>

The Superior Council, made up of locally powerful business leaders, replaced the LeMoynes brothers' direct rule in 1724. Other French governors, such as the Marquis de Vaudrevil, were sent out to oversee the Council and military operations of the colony. These non-descript leaders presided over a prosperous period in Louisiana history when both the colony's population and commerce grew. It was during this time that sugar cane was introduced into Louisiana. Also the Code Noir (French colonial slave regulations) originated in this era, an event which gave slavery in Louisiana its special character.<sup>6</sup>

Louisiana under the French thrived until the end of the Seven Years War in 1763. At that time France sought to dispose of its holdings in Louisiana as a bribe to convince Spain to agree to end the war (the continuation of which would lead to further French territorial losses). The Spanish agreed to accept the cession of Louisiana as it would provide a buffer between British America and Spanish Mexico, and partly make up for the loss of Florida to the British.<sup>7</sup>

Another era of prosperity arose over the next three decades as a number of Spanish governors proved themselves both popular and strong leaders. Bernardo de Gálvez, Estban

Miro, and Baron de Carondelet gave Louisiana many years of stable government. Under their regimes, trade with both Spain and the United States grew, and for the first time Louisiana started to fulfill the expectations of earlier colonizers. Unfortunately by the mid-1790s, amid growing conflicts with the United States, later colonial officials could not retain a firm grasp on their power in Louisiana.<sup>8</sup>

The French and Spanish legacy in Louisiana made the area unique in North America and prompted serious differences which the American government would have to resolve before Louisiana could become a productive part of the United States. By 1803, the average citizen spoke French, with Spanish as the official language of the government. The many ethnic groups found in pre-American Louisiana complicated government policies. Germans, Acadians, French businessmen and peasants, Spanish immigrants, African slaves, black freedmen, and a handful of British and Americans (who, though small in number, were very visible in New Orleans society) made up the major population groups.<sup>9</sup>

In addition to the growing trade in American products, Louisiana had a burgeoning market for local produce. Cotton, sugar, and furs were the top exports of Louisiana. All imports and exports were subjected to a 6 percent duty. Smuggling was the way many merchants avoided the duty. The output of local manufacturers was negligible. New Orleans was the center of both internal and overseas trade. In

1802, 268 ocean-going ships docked at New Orleans. Just over one-half of these had United States registry. Over five hundred flatboats engaged in the Mississippi River trade called at New Orleans in 1802. Americans manned many of these vessels which carried produce from the western United States.<sup>10</sup>

The climate and geography of Louisiana affected population and agricultural patterns. Due to lack of passable roads, transportation in southern Louisiana around New Orleans was by water. The main export crops were grown in the region on plantations. The population was concentrated along the navigable waterways. In present-day northern Louisiana and Arkansas, the climate was more moderate and favored grain and livestock production. Upper Louisiana (Missouri and the Great Plains) was very sparsely settled, and St. Louis was the largest town in the area. The Latin population of Louisiana resided in the Mississippi River delta region around New Orleans and Baton Rouge. Immigrants from the United States made up the majority of the population in Upper Louisiana.<sup>11</sup>

In law and government, particular differences could be found between the United States and Louisiana. Under Spanish rule, the governor controlled the military and the court system. The Cabildo, also known as the Provincial Council, initiated legislation. Presiding over the Cabildo was one of the duties of the governor. The twelve members of the Cabildo, appointed by the governor, represented the

most important families of the colony. Taxation, commerce, and land grants were the responsibility of another important official, the Intendant. Like the governor, Madrid appointed the Intendant, but he operated independently from the governor. Both, however, were answerable to Havana and Madrid for their actions. The province was divided into two large administrative areas, Lower Louisiana, the area around New Orleans and present-day Louisiana, and Upper Louisiana made up of the territories to the north. A Lieutenant-governor commanded Upper Louisiana with much the same powers that the Governor had in New Orleans. Naturally the Governor was the supreme power in legal and military matters in the colony. Finally, within Upper and Lower Louisiana, the commanders of local military garrisons were responsible for enforcing laws and keeping the peace within their immediate vicinity. These sub-divisions were known as Districts<sup>12</sup>

Unlike the Anglo-American legal system which is based on common law, Louisiana inherited the system of Civil (or Roman) law used by both Spain and France. The courts dealt separately with criminal and civil cases. In adjudicating civil suits, arguments made before a judge took a written form. After consideration, the judge handed down a ruling. If a participant was not satisfied with the ruling, he could appeal to the Governor-general of the West Indies in Havana or to the court in Madrid. Criminal cases fell under the same procedures as civil cases. Though jury trials did not

exist, the defendant could have counsel and defend himself.<sup>13</sup>

Another intriguing feature of the Spanish legal system dealt with slavery. Under the Spanish regime starting in 1763, the French Code Noir remained in effect in Louisiana. The Code Noir, first enforced in the 1740s concerned itself with the rights of masters and slaves. The code allowed for the determination of legal ownership of slaves and outlined the rights that slaves had under the law. The Code also expelled all Jews from Louisiana and made Roman Catholicism the official religion. Masters could not mistreat their slaves and could be held liable if they did so. Slaves attained limited legal rights to medical care and could testify in open court. For those slaves with sufficient resources, one's freedom could be purchased and the Code made it easy for masters to manumit their slaves. Importantly, free blacks had the same legal rights as free whites. The Spanish allowed free blacks to participate in military and commercial activities. As one might imagine, masters, resenting government interference in how they treated their slaves, sometimes ignored the code. In the 1790s under the Baron Carondelet, the government tightened restrictions on free movement and association among slaves following the successful slave revolt in St. Domingue. Though reflecting the fear of slave unrest in New Orleans and the plantations, the new slave regulations did not restrict the activities of black freedmen.<sup>14</sup>

From the acknowledgement of American independence by



England in the Treaty of Paris in 1783, continual conflict occurred between Spain and the United States along the Mississippi River and in the Old Southwest. From the start, Spain claimed part of the territory in the Old Southwest as a part of Louisiana and not England's to surrender to the United States. The United States claimed the east bank of the Mississippi River as its western most border. Spain refused to evacuate its outposts on the east side of the river and closed the river to American commerce in 1784 for a period of twelve years. Few protests came from the United States against Spain, as American commerce on the Mississippi involved only a handful of businessmen at the time, and most importantly, the United States was not in a position to go to war over the issue.<sup>15</sup>

The question of the territorial extent of Louisiana became increasingly important as American interest in the region grew. The area claimed by Sieur de La Salle in the 1680s covered the watershed of the Mississippi River from the Rocky Mountains to the Appalachian Mountains and from the present-day border with Canada to the mouth of the Mississippi River on the Gulf of Mexico. Agreements in 1762 between Spain, France, and England kept the same vague western and northern borders (see figure 1). All French territory east of the Mississippi River and north of latitude 31 degrees was ceded to England. This land became the American Old Southwest (see figure 2) in 1783. Pinckney's Treaty in 1795 resulted in the surrendering of

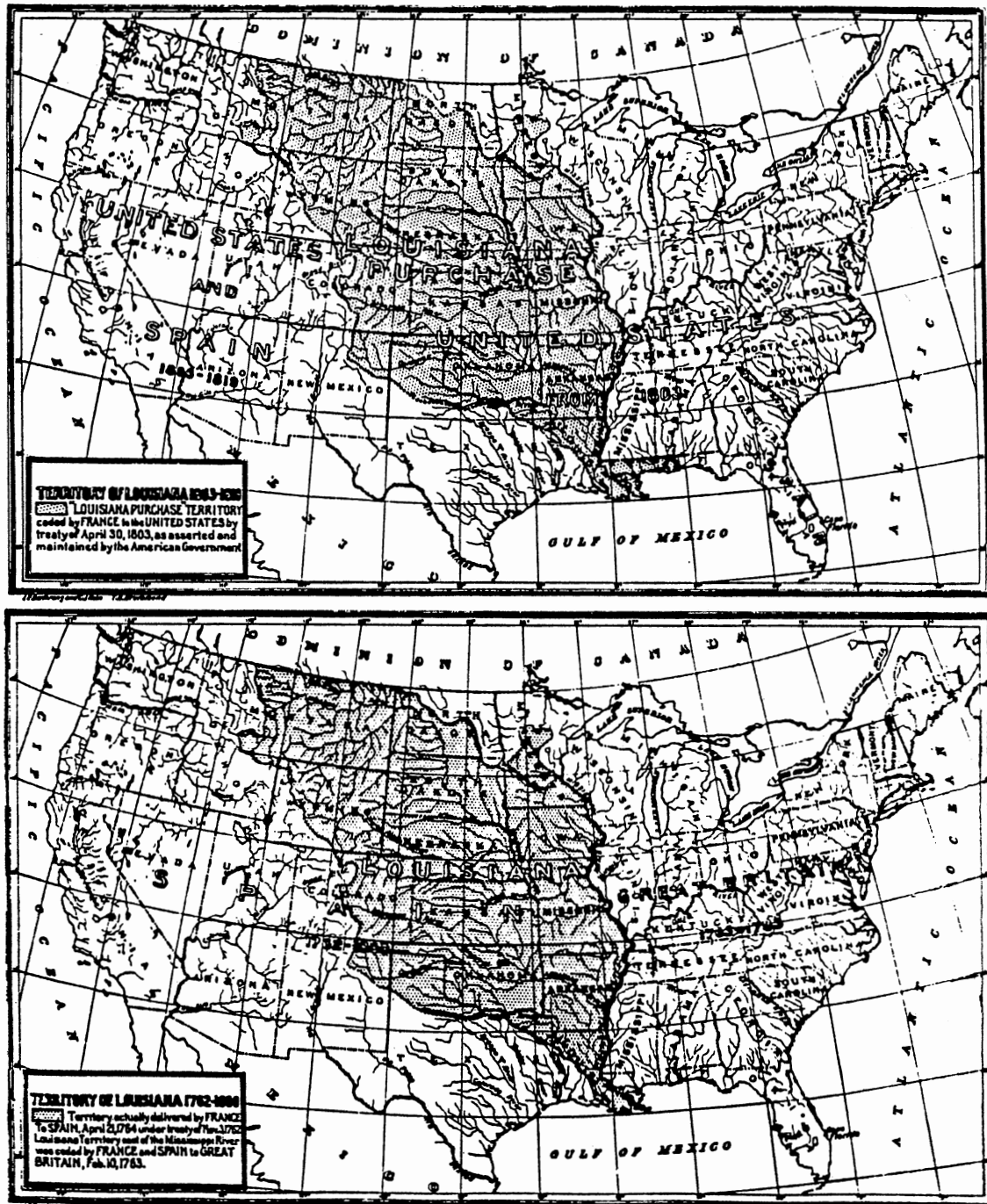
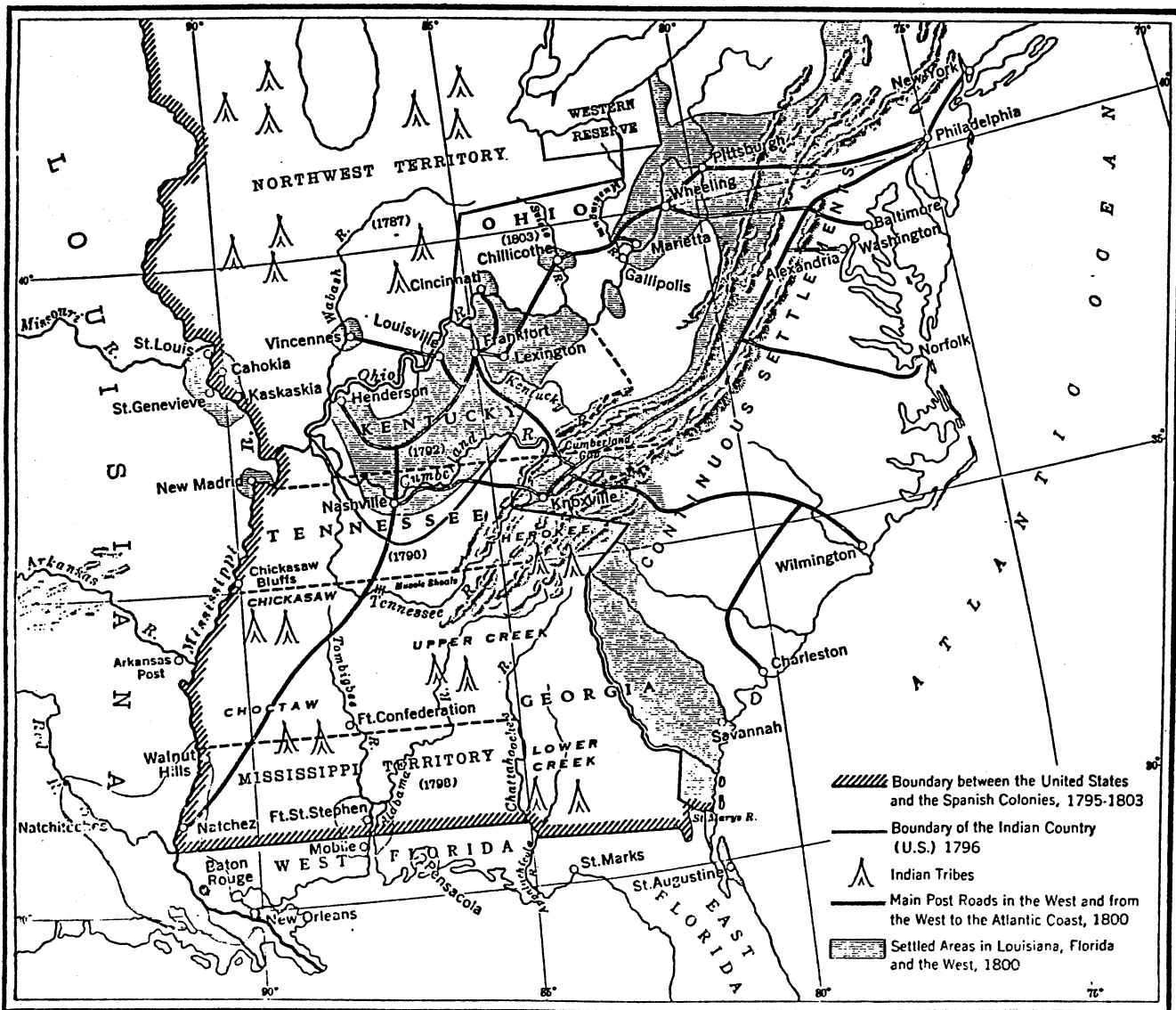


Figure 1. Map of Louisiana. Source: Department of the Interior, Historical Sketch of "Louisiana" and the Louisiana Purchase (Washington, D.C.: U.S. Government Printing Office, 1912). p. 3.

Figure 2. Map of Old Southwest. Source: Arthur Whitaker, The Mississippi Question, 1795-1803 (New York, New York: Appleton-Century Co., Inc., 1934). P. i.



Spanish claims to the east bank of the Mississippi River. The northern and western limits of Louisiana would be set in a series of treaties with Spain in the 1810s and 1820s. In 1803-1804 the main border dispute concerned West Florida. Spain considered its borders to run from the Mississippi River to the Appalachicola River (excluding New Orleans) and south of latitude 31 degrees. Spain refused to include West Florida in the Retrocession Treaty of 1800 (France claimed West Florida as part of pre-1762 French Louisiana). Likewise Spain refused to turn over West Florida to the United States in connection with the Louisiana Purchase. The United States annexed West Florida in 1810 after a successful revolt there by American immigrants. Spain sold East Florida to the United States in 1819.<sup>16</sup>

Starting in the 1790s, American influence in the Mississippi Valley increased. By 1802, Americans made up the majority in Upper Louisiana, and though still a minority in New Orleans, furnished a continual source of irritation to Spanish officials. As has been well-documented, especially by Arthur Preston Whitaker, as the American frontier expanded, commerce along the Mississippi River attained a new importance in American governmental policy. The river provided a cheaper route for the transportation of western agricultural goods for markets in the West Indies and along the Atlantic coast than overland passages. Also Congress and various state governments, especially the

frontier states of Georgia, Kentucky, and Tennessee, sought to usurp the influence that the Spanish had been cultivating among the southern Indian tribes. The Americans hoped to lessen the menace of Indian attacks on frontier settlements and to induce them to cede more land for settlement and speculation. Increasing pressure by western political opinion and a desire to avoid a military conflict with Spain in the West gave the new federal government a reason to settle its claims by negotiation.<sup>17</sup> The American settlers in the West were not seeking an American empire, but economic opportunity in the Mississippi Valley. As Frederick Jackson Turner writes:

The future of a united nation extending from Atlantic to Pacific appealed less to their imagination than did the pressing need of themselves possessing the portals of the great valley which they occupied. There appeared to be two solutions of the difficulty, either open the Mississippi...or fight their way out.<sup>18</sup>

In 1795, the President George Washington sent Thomas Pinckney to Madrid to reopen the Mississippi River to American navigation. Pinckney's Treaty, otherwise known as the Treaty of San Lorenzo, gave the westerners more than they ever hoped for. Spain recognized American claims to the Old Southwest and the east bank of the Mississippi River. Also Spain recognized the right of free navigation on the river and allowed American merchants to deposit their goods in New Orleans warehouses duty-free. The right of deposit in New Orleans lasted three years, and thereafter was subject to annual renewal by the Spanish Crown. If this

right was suspended at a later date, another location would be assigned on the river for American use. The West received its desired commercial concessions while the Spanish avoided armed confrontation along the Mississippi River and were in a position to regulate the flourishing American river trade. On the surface, everyone seemed to win, but conflicts between the United States and Spain had just started.<sup>19</sup>

Not until after the turmoil of the French Revolution, did the new French Republic renew its efforts to reacquire Louisiana. Under the Directory, plans were made to force cession, using military force if necessary. The defeats suffered by the French in Europe in 1793-1794, and the failure of "Citizen" Edmond Genêt<sup>^</sup> to raise an American expedition, caused the French to try long-term negotiations with the Spanish in hopes of persuading them of Louisiana's liabilities. Throughout the 1790s the Spanish continually rebuffed French efforts at reacquiring Louisiana or a more influential role in the region's commerce. It was only with the rise of Napoleon Bonaparte's political fortunes that France effected the retrocession of Louisiana to France.<sup>20</sup>

In 1800, as part of a general European peace settlement, France and Spain signed the Second Treaty of San Ildefonso which retroceded Louisiana to France in return for the creation of a new kingdom out of French Italian territory awarded to the Duke of Parma, the brother of the Queen of Spain. Despite the appearance of an unequal trade,

the Spanish appeared to have made the deal without undue French pressure. The Queen wanted her landless relative to have his own kingdom, and the Spanish would be rid of a province that had been the source of many financial and diplomatic problems. As the French showed every interest in keeping Louisiana, Spain could still count on a buffer zone for its North American holdings, with no further outlay of funds. As France was a stronger military power than Spain, Louisiana could better withstand increasing American encroachment.<sup>21</sup>

Predictably, the retrocession of Louisiana to a strong European military power troubled the Jefferson administration. Thomas Jefferson wrote of his concerns for a French presence in Louisiana:

The cession of Louisiana and the Floridas by Spain to France, works most sorely on the United States....There is on the globe one single spot, the possessor of which is our natural and habitual enemy. It is New Orleans....France, placing herself in that door, assumes to us the attitude of defiance. Spain might have retained it quietly for years. Her pacific dispositions, her feeble state, would induce her to increase our facilities there so that her possession of the place would hardly be felt by us....Not so can it ever be in the hands of France: the impetuosity of her temper, the energy and restlessness of her character, placed in a point of eternal friction with us...render it impossible that France and the United States can continue long friends, when they meet in so irritable a position.<sup>22</sup>

Settlers in the West, expressed similar sentiments, for they feared France would ignore the agreements made with Spain which had served the West so well. The Federalist Party saw an opportunity to discredit Jefferson and gain support in

the West. Anticipating a hostile American reaction to the Retrocession, the Spanish and the French kept the treaty secret from the American ministers in Paris and Madrid. Eventually word got out and by the end of 1801 much of the public in the United States were aware of the provisions. Conflicts between France, Spain, and the United States multiplied until the resolution of the Louisiana problem with the Purchase of 1803.<sup>23</sup>

Although the French wanted to occupy Louisiana immediately, Spain stalled; not until early in January of 1803 did the first French official, Pierre-Clément Laussat, arrive in New Orleans to prepare for transfer. Not all Spanish ministers believed that Spain received a fair trade from France. This feeling intensified as the French delayed creating a kingdom for the Duke of Parma. The promises that once Louisiana was under firm French control, the kingdom would be turned over to Spain, induced the Spanish king, Charles IV, (against the views of his advisors) to issue orders in October of 1802 to prepare for transfer to France once Napoleon could send out a sizeable military force. The next two events, the closing of the right of deposit and the failure of Napoleon's proposed empire in the New World, consisting of Louisiana and the French West Indies, prevented the French from occupying Louisiana.<sup>24</sup>

The spark that forced the Jefferson administration to act to secure permanent American commercial rights in Louisiana was the closing of the right of deposit by the



Intendant in New Orleans, Juan Ventura Morales, in October of 1802. Claiming authority under the terms of San Lorenzo, he refused to renew the American right of deposit, though actual navigation rights on the river remained unaffected. This order had the effect of crippling American trade along the Mississippi River since there was no place to store goods transported down-river to New Orleans. Understandably, both local businessmen in New Orleans and Americans along the Mississippi Valley were incensed. The Americans claimed that though the right of deposit in New Orleans could be suspended, the treaty specified that another area along the river should be chosen for the American traders to use. Outraged, the American public demanded that something be done.<sup>25</sup>

As soon as the order for closure became public, questions arose concerning who influenced the Intendant to take such a controversial action. Few believed Morales' official explanation that he acted on his own authority. Many drew the conclusion that France had demanded closure in preparation for their expected occupation of Louisiana and had used the local Spanish government to conceal their role. The Federalists in Congress, led by Senator James Ross of Pennsylvania, saw an opportunity to gain public support by calling for military action to secure the river and New Orleans for the United States. Jefferson, knowing that war with Spain would be costly to the United States, agreed to send representatives to Paris to negotiate for protection of

American commercial rights in the Mississippi Valley. To placate those wanting a violent solution, Jefferson approved legislation setting up procedures for calling up the militia if the French refused to cooperate in a peaceful solution. These actions led directly to the Louisiana Purchase.<sup>26</sup>

The notion that France was somehow involved in the closure persisted until later historical research revealed no evidence of complicity. French documents demonstrate surprise in Paris at the events of late 1802. A check of Spanish archives turned up a royal order directing Morales to close the right deposit because of flagrant American violations of Spanish law in New Orleans and rampant smuggling activities. Also the order cited poor treatment of Spanish shipping in American ports as a reason to punish the Americans. The Intendant was ordered to keep the involvement of Madrid secret and accept responsibility for his actions. Intendant Morales, facing displeasure from all sides, reopened the deposit in the spring of 1803 as negotiations for Louisiana began in Paris.<sup>27</sup>

Due to circumstances in Paris in March and April of 1803, the American negotiators found Napoleon receptive. The First Consul had hoped to build an empire including both Europe and North America. French Canada had been lost years before, but the French West Indies and Louisiana still provided a base for French power in the new world. The most important territories were still the French sugar islands in the Caribbean Sea. The first priority of Napoleon was to

re-establish French control in St. Domingue (present day Haiti) which had experienced a slave revolt lead by Toussaint L'Overture. Once Napoleon had control in the West Indies, Louisiana would be next. Thanks to Spain, he obtained Louisiana peacefully and would then occupy it after the pacification of St. Domingue. Louisiana would supply raw materials for France and foodstuffs for the sugar islands. Also the French would control the former Spanish trade with the United States, which became more lucrative with each passing year.<sup>28</sup>

Unfortunately, plans for a western empire fell apart when General Leclerc's forces got bogged down in St. Domingue. Local resistance and an outbreak of malaria combined to keep the French from consolidating their victories in the Caribbean. This delay set back the occupation of Louisiana by several months. Finally, ice kept a relief expedition carrying reinforcements and supplies for the new world stuck in French-controlled Dutch harbors for the winter. After the ice melted, an anticipated renewal of war with England again delayed the fleet. As the problems in North America mounted, Napoleon faced growing conflicts in Europe. Any troops sent west would deplete the strength of French European forces.<sup>29</sup> Bonaparte's plans for Louisiana relied on peace in Europe, success in St. Domingue, and a cooperative American government, none of which materialized.<sup>30</sup>

During this time, while Napoleon faced difficult

decisions, the American envoys arrived to offer a solution. In March 1803 Jefferson ordered the American Minister to France, Robert R. Livingston, to test the French attitude towards selling New Orleans. Actual negotiations waited until Jefferson's representative, James Monroe, made it to Paris with final instructions. The Americans were to offer to buy New Orleans and Florida from the French. As a last resort a deal could be made at least to guarantee American navigation and deposit rights along the Mississippi River when under French control. Beginning without Monroe, who Livingston disliked and felt would steal the credit for any agreement, Livingston met with François Barbé-Marbois, the head of the French Treasury, to discuss the purchase of New Orleans. Livingston was shocked when offered all of Louisiana except Florida, which Spain refused to include in the retrocession as part of Louisiana. Upon Monroe's arrival, he agreed that this was too good an opportunity to let pass, so without authorization from their superiors in Washington, they continued the negotiations.<sup>31</sup>

Since the closure of deposit, Livingston had been probing the French foreign ministry for any signs that France might want to get rid of part of Louisiana. Napoleon and other high officials, aware of American interest in Louisiana, contemplated what action to take. Facing the failure of Leclerc and knowing that he did not have the resources to fight on two continents, Napoleon made the decision to sell Louisiana. The sale relieved him of the

problems associated with the area and the proceeds could be used to finance an anticipated renewal of war with England.<sup>32</sup>

Despite protests from his brothers and other ministers, Napoleon approved the sale of Louisiana and on May 1st, 1803, Barbe-Marbois (who supported Napoleon's decision to sell) and the Americans signed the agreements. The agreements, antedated to April 30, consisted of three parts. The Treaty of Cession of Louisiana from France to the United States detailed the terms of the cession. A Convention outlined the terms of payment by the United States to France for Louisiana. Lastly, another Convention specified details of the United States' assumption and payment of American claims against the French government for damages resulting from the Undeclared Naval War of 1798-1800.<sup>33</sup>

The United States received much more for its investment than expected. Ten million dollars had been allocated for the purchase of New Orleans and Florida. The final purchase price was fifteen million for all of Louisiana--the territorial extent of which no one knew. Issuance of bonds through brokerage houses in London and Amsterdam, payable over a period of twenty years, financed the purchase. Interestingly, the future conflicts between France and England (and later the United States and England) did not disrupt the business arrangements made in Paris in 1803.<sup>34</sup>

Although the treaty and conventions seemed to spell out the terms of cession, ambiguities in the wording led to later controversies. The treaty did not specify the extent

of Louisiana and what France could cede and what belonged to Spain. The third article of the treaty proved especially troublesome as it stated that Louisiana "shall be incorporated into the Union of the United States and admitted as soon as possible." No details were supplied on how to go about this. Until then the people of the province would have the same rights as other American citizens. Finally, advantageous commercial privileges were extended to the French as part of the treaty for a period of twelve years, starting in 1803. This section did not please either Spanish or western ship-owners and merchants.<sup>35</sup>

The news of the purchase had reached most Americans by early summer. Those who had wanted to obtain permanent navigation rights on the Mississippi River had their hopes fulfilled. One could find little jubilation among the Federalist opposition in Congress for this success of Jeffersonian diplomacy or with President Jefferson, who was troubled by the constitutionality of the Purchase. The Federalists had to find a way to stop the cession, or at least lessen its impact. There were constitutional questions posed that went to the very essence of Jeffersonian Democracy. Decisions and compromises would have to be made, with the impact on the country and party unknown.

#### ENDNOTES

<sup>1</sup> Charles Dufour, Ten Flags in the Wind: The Story of Louisiana (New York, New York: Harper and Row, 1967), pp. 7-24.

<sup>2</sup> Dufour, Ten Flags, pp. 34-59.

<sup>3</sup> Ibid., pp. 77-82.

<sup>4</sup> Ibid., pp. 85-94.

<sup>5</sup> Ibid., pp. 97.

<sup>6</sup> Ibid., pp. 100-107.

<sup>7</sup> Ibid., pp. 113-120.

<sup>8</sup> Ibid.; Arthur S. Aiton, "The Diplomacy of the Louisiana Cession," American Historical Review 36 (July 1931): 719.

<sup>9</sup> George Dargo, Jefferson's Louisiana: Politics and the Clash of Legal Traditions (Cambridge, Massachusetts: Harvard University Press, 1975), pp. 7-9.

<sup>10</sup> Annals of the Congress of the United States, Eighth Congress, Second Session (Washington, D.C.: Gales and Seaton, 1852), pp. 1523-1525.

<sup>11</sup> Dargo, Jefferson's Louisiana, pp. 4-7.

<sup>12</sup> Annals, 8th Cong., 2nd sess., pp. 1519-1521.

<sup>13</sup> Annals, 8th Cong., 2nd sess., pp. 1515-1518.

<sup>14</sup> Charles Gayarré, Louisiana: Its Colonial History and Romance (New York, New York: Harper and Brothers, 1851), pp. 635-638; Marcus Christian, "Demand by Men of Color for Rights in Orleans Treaty," Negro Historical Bulletin 36 (February 1973): 55; Mathe Allain, "Slave Policies in French Louisiana," Louisiana History 21 (Spring 1980): 137; Annals, 8th Cong., 2nd sess., pp. 1567-1570.

<sup>15</sup> Department of the Interior, General Land Office, Historical Sketch of "Louisiana" and the Louisiana Purchase (Washington, D. C.: United States Government Printing Office, 1912), pp. 7-15; Arthur Preston Whitaker, The

Spanish-American Frontier: 1783-1795, The Westward Movement and the Spanish Retreat in the Mississippi Valley (n.p., 1927; reprint ed., Gloucester, Massachusetts: Peter Smith, 1962), pp. 65, 68.

<sup>16</sup>Historical Sketch of "Louisiana", pp. 7-15.

<sup>17</sup>David Yancey Thomas, History of Military Government in the Newly Acquired Territory of the United States (New York, New York: Columbia University Press, 1904), p. 26; Dargo, Jefferson's Louisiana, p. 11; Louis Pelzer, "Economic Factors in the Acquisition of Louisiana," Proceedings of the Mississippi Valley Historical Association 6 (May 1913): 125; Arthur Preston Whitaker, The Mississippi Question, 1795-1803: A Study in Trade, Politics, and Diplomacy (New York, New York: D. Appleton-Century Company, Inc., 1934), pp. 70-75; Whitaker, Spanish-American Frontier, pp. 200-202.

<sup>18</sup>Fredrick Jackson Turner, "The Origin of Genet's Projected Attack on Louisiana and the Floridas," American Historical Review 3 (July 1897): 653.

<sup>19</sup>Public Statutes at Large of the United States of America, ed. Richard Peters (Boston, Massachusetts: Charles C. Little and James Brown, 1846), Vol. 8: Foreign Treaties, pp. 140-151; Whitaker, Spanish-American Frontier, p. 201.

<sup>20</sup>E. Wilson Lyon, Louisiana in French Diplomacy, 1759-1804 (Norman, Oklahoma: University of Oklahoma Press, 1934; reprint ed., Norman, Oklahoma: University of Oklahoma Press, 1974), pp. 70-71, 91, 103, 109.

<sup>21</sup>Ibid.

<sup>22</sup>Thomas Jefferson to Robert R. Livingston, 18 April 1802, Thomas Jefferson Papers, Library of Congress, Washington, D. C.

<sup>23</sup>Whitaker, Mississippi Question, p. 184; Mary P. Adams, "Jefferson's Reaction to the Treaty of San Ildefonso," Journal of Southern History 21 (May 1955): 174; Lyon, Louisiana-French Diplomacy, p. 107; Lowell H. Harrison, John Breckinridge: Jeffersonian Republican (Louisville, Kentucky: Filson Club, 1969), p. 149.

<sup>24</sup>Lyon, Louisiana-French Diplomacy, pp. 134, 125.

<sup>25</sup>Whitaker, Mississippi Question, pp. 189-195, 199; Lyon, Louisiana-French Diplomacy, p. 178.

<sup>26</sup>Ibid.

<sup>27</sup>E. Wilson Lyon, "The Closing of the Port of New Orleans," American Historical Review 37 (January 1932):



282-283.

<sup>28</sup> Lyon, Louisiana-French Diplomacy, pp. 101, 124.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid., p. 147.

<sup>32</sup> François Barbé-Marbois, The History of Louisiana, Particularly of the Cession of that Colony to the United States of America, ed. E. Wilson Lyon (Philadelphia, Pennsylvania: Carey and Lea, 1830; reprint ed., Baton Rouge, Louisiana: Louisiana State University Press, 1977), pp. xx-xxii; Lyon, Louisiana-French Diplomacy, p. 213-223, 248;

<sup>33</sup> United States Congress. House. The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America, by Francis Newton Thorpe. H. R. 357, 59th Cong., 2nd sess., 1909 (Washington, D.C.: United States Government Printing Office, 1909), pp. 1360-1362;

<sup>34</sup> J. E. Winston and R. W. Colomb, "How the Louisiana Purchase Was Financed," Louisiana Historical Quarterly 12 (April 1929): 210-213, 191-192;

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## CHAPTER III

### RATIFICATION OF THE LOUISIANA PURCHASE TREATY

The ratification of the Louisiana Purchase Treaty and passage of bills associated with it occupied the Senate in October 1803. Analysis of senatorial voting shows that the primary factor determining voting patterns was party affiliation. Yet within the Federalist party, the younger members were more willing to support the Republican majority.

To understand partially the motivation behind the decisions made in the Senate concerning Louisiana from 1803 to 1805, the political background of the senators requires examination. By this time two major political parties had formed, the Federalists and the Republicans (also known as Democratic-Republicans, or Jeffersonian Republicans). Though both groups started out as political factions in the 1790s, by 1803 they had evolved as full fledged political parties. In 1803, however, the Federalist party was in decline, with strongholds in New England and New York. Republicanism under the guidance of Thomas Jefferson, later James Madison and James Monroe, foresaw a rural, agricultural America. Jefferson also viewed the role of the federal government as a limited one, with as little

interference as possible in local and state affairs.<sup>1</sup>

From its earliest beginnings, the Republican party had ties to the West. The farmers and planters who settled the western frontier presented the Republicans with a natural power base. The West provided new land for agricultural exploitation with production surpluses sold in overseas markets. This form of expansion encouraged the Republican ideal of an agricultural-based economy. James Madison was the principal proponent for this role of the West in the development of the United States. The concerns of the West were the concerns of the Republican party. Throughout the 1790s the Republicans supported westerners' views on issues such as navigation of the Mississippi River and pacification of hostile Indians.<sup>2</sup>

When one examines the political philosophy of the Republican party, the influence of Thomas Jefferson cannot be ignored. Early on, the ideals of an enlightened, democratic, and pastoral America were his ideals. At a time in the 1790s when others attempted to adapt the Constitution to their own interests, Jefferson held to the doctrine of "strict construction," that is, the Constitution as written and amended was not open to broad interpretation. He also championed the right of the individual to express himself freely and believed in the need for minimal involvement of the national government in the affairs of its citizens. He sometimes made drastic departures from those ideals during his years as President.<sup>3</sup>

From the start of his presidency, Jefferson took an active interest in Louisiana. As an astute politician, he realized its importance to the Republicans in the West, a branch of the party growing in its influence on national politics. He made comments, now often quoted, telling of his feelings for this land "through which the produce of three-eighths of our territory must pass to market, and from its fertility it will ere long yield more than half of our whole produce, and contain more than half of our inhabitants."<sup>4</sup> Though Jefferson wanted to obtain Louisiana for the United States, he needed the cooperation of the Senate in reaching that goal.

Most of the senators sitting in the Senate chamber for the Eighth Congress in October, 1803, had served in the Seventh Congress. Of the thirty-four seats in the Senate, new senators took only nine. With twenty-three members, the Republicans had an overwhelming majority while the nine Federalists provided a small, but very vocal, minority. Within the Federalist party, not all were united. The new senators from Massachusetts, John Quincy Adams and Timothy Pickering, had an intense dislike for each other that had started when John Adams dismissed Pickering as Secretary of State in 1800 for pro-Hamilton loyalties. This friction deepened when John Quincy Adams defeated Pickering in the race for Adams's senate seat. Also the senators from New Hampshire, William Plumer and Simeon Olcott, along with Adams, were willing to put party politics aside when

necessary. Plumer and Adams later became members of the Republican party. Uriah Tracy and James Hillhouse of Connecticut joined Pickering as the die-hards of the Federal party in the Senate. The senators from Delaware, Samuel White and William Wells, usually aligned with Pickering. Another Federalist, Jonathan Dayton of New Jersey, was a member of the party in name only, as he always voted with the Republican majority.<sup>5</sup>

On the Republican side, Jefferson was fortunate to have many old comrades in the Senate to support his policies. The Jeffersonian leader from the West, John Breckinridge, and from Virginia, Wilson Cary Nicholas, had collaborated with him on the Virginia and Kentucky Resolutions in 1798-1799. John Taylor of Virginia was also well-acquainted with the more famous Virginian, as they routinely discussed party ideology. Another intimate of Jefferson was George Logan of Pennsylvania. Logan's mansion on the outskirts of Philadelphia became the meeting place of many Republican leaders in the 1790s as they sought to find ways to oust the Adams administration. Jefferson consulted the newly-arrived senator from Ohio, John Smith, on matters dealing with Louisiana and Florida, as Smith knew the region well because he had business interests in New Orleans and owned land around Natchez and in Florida.<sup>6</sup>

Within the Senate an unusual number of familial and political ties could be found. Marriage made several senators related. Most of the senators had either worked

together in previous Congresses or in state politics. Others had cooperated in business ventures and land speculation in the West. The lack of adequate housing and entertainment in the national capital at that time forced an unusual intimacy upon the senators. They tended to congregate with members of their own political parties and geographical sections.<sup>7</sup>

The senators of 1803 were indeed a diverse and interesting group. Their average age was 47.2 years. The youngest senator was Thomas Worthington at 30, and the oldest at 68 were Simeon Olcott and John Smith of Ohio. The majority of the senators were in their forties and fifties. Veterans of the American Revolution accounted for 48.6 percent of the Senate and of those, 88.2 percent were officers. All the Senators received some form of secondary schooling, and 60.0 percent attended college. The remaining 40.0 percent studied law, medicine, or theology either on their own or under an apprenticeship. Of those going to college, 85.7 percent went to either Harvard, Yale, Princeton, or William and Mary. The Senate of the Eighth Congress had a vast amount of political experience, as 85.7 percent previously served in state legislatures or were appointed to state-level offices. Also 85.7 percent had experience on the national level either in Congress or as appointed federal officials. Most of the senators, 74.3 percent, represented the same state where they were either born or grew up. All the senators from Kentucky and

Tennessee had emigrated from western parts of Pennsylvania and Virginia. One senator in particular, William Cocke, had gone west in the early 1770s with Daniel Boone and had spent most of his life on the frontier by the time he was elected to the Senate. Out of this wealth of details, a portrait of the Senate emerges. Its members were well-educated, versed in the art of politics, and were members of the upper classes of their respective states.<sup>8</sup>

In March 1804, Congressman John Fowler of Kentucky wrote to his constituents back home concerning the recent purchase of Louisiana:

The acquisition of Louisiana to our part of the country must be an object of the most important consequences as it will not only secure us an uninterrupted outlet for the productions of our soil, but encrease the demand and the profits of our industry....The laws that concern its government are only temporary, and will of course gradually change their features, till in time they harmonize in form and freedom with our own. The comparative unacquaintance in which we stand with the habits and institutions which before existed in Louisiana, have rendered this gradual introduction of free government necessary, and it may be said that while solicitous of conferring on them the rights of freemen,<sup>9</sup> we have been tender even of their prejudices.

His thoughts reflected the attitudes of his fellow westerners and Republicans in both houses of Congress. Once terms of the treaty and conventions of April 1803 became known to the members of the Eighth Congress, efforts began to coordinate the mass of legislation that would be necessary to incorporate Louisiana into the United States. Many of the issues raised during the course of the congressional debates on Louisiana centered on issues which

reoccured whenever the United States acquired new territory.

Three roll calls were recorded on the Louisiana cession and payment for the new territory (see Table I). The senate had to ratify the treaty (Roll Call 3) before both houses of Congress could consider other legislation concerning Louisiana. Following that, the senators voted on a bill authorizing President Jefferson to take possession of Louisiana and appoint a temporary government (Roll Call 2). This government would function until the Congress set up a permanent territorial one. This legislation, known as the Breckinridge Louisiana Government Bill, went into effect in March 1804. The final action of the Senate concerned the payment for Louisiana (Roll Call 1). The act created stock which would be used to pay the French for the land and to pay off American claims against the French government. All acts passed by an overwhelming majority. Once these preliminaries made Louisiana the property of the United States, arrangements could be initiated to govern the new territory.

Throughout the summer of 1803, Jefferson and his Republican associates discussed how to insure the smooth passage of legislation on Louisiana when the new Congress started in the fall. To facilitate the quick ratification of the treaty, Jefferson called the Congress into session about a month earlier than expected. The Senate met on October 17, 1803 to consider the ratification of the treaty



TABLE I  
LOUISIANA PURCHASE: SENATE  
VOTING BLOCS<sup>10</sup>

Senators	State	Party	Roll Calls		
			1	2	3
Anderson	Tenn.	Rep.	+	+	+
Bailey	NY	Rep.	+	+	+
Baldwin	Ga.	Rep.	+	+	+
Bradley	Vt.	Rep.	+	+	+
Breckinridge	Ky.	Rep.	+	+	+
Brown	Ky.	Rep.	+	+	+
Butler	SC	Rep.	+	+	+
Cocke	Tenn.	Rep.	+	+	+
Condit	NJ	Rep.	+	+	+
Dayton	NJ	Fed.	+	+	+
Ellery	RI	Rep.	+	+	+
Franklin	NC	Rep.	+	+	+
Jackson	Ga.	Rep.	+	+	+
Logan	Penn.	Rep.	+	+	+
MacLay	Penn.	Rep.	+	+	+
Nicholas	Va.	Rep.	+	+	+
Potter	RI	Rep.	+	+	+
Smith, I.	Vt.	Rep.	+	+	+
Smith, S.	Md.	Rep.	0	+	+
Stone	NC	Rep.	+	+	+
Taylor	Va.	Rep.	+	+	+
Worthington	Ohio	Rep.	+	+	+
Wright	Md.	Rep.	+	+	+
Smith, J.	Ohio	Rep.	+	+	0
Wells	Del.	Fed.	-	+	-
White	Del.	Fed.	-	+	-
Adams	Mass.	Fed.	+	-	0
Olcott	NH	Fed.	+	-	-
Plumer	NH	Fed.	+	-	-
Hillhouse	Conn.	Fed.	-	-	-
Pickering	Mass.	Fed.	-	-	-
Tracy	Conn.	Fed.	-	-	-

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## TABLE I (Continued)

## KEY

Rollcall 1: November 3, 1803. To authorize the creation of a stock to the amount of \$11,250,000 for the purpose of carrying into effect the Convention of April 30, 1803 between the United States and France, and making provision for the payment of the same. (Passed, 26-5).

Rollcall 2: October 26, 1803. To allow President Jefferson to take possession of Louisiana and to provide for the temporary government of the territory. (Passed, 26-6).

Rollcall 3: October 20, 1803. To ratify the Treaty between the United States and France concluded at Paris on April 30, 1803. (Passed, 24-7).

in executive session. Breckinridge issued a call for all western Republicans to meet in Washington before the start of the session to discuss the treaty. While planning legislation on Louisiana with the other Republican leaders, Jefferson had to resolve his personal feelings on the constitutionality of the Louisiana Purchase.<sup>11</sup>

From the moment that Jefferson learned of the success of his emissaries in Paris, he faced a crisis. From his first acquaintance with the Constitution, he had been an adherent of the doctrine of "strict construction." This doctrine held that the Constitution explicitly defined the role and powers of the federal government. If the Constitution did not cover a certain contingency, the answer was to amend the document rather than to interpret it loosely. This idea of "strict construction" had served Jefferson and the Republican party well during the years of Federalist dominance of the national government. The attacks on Hamiltonian programs, such as the First Bank of the United States, and other Federalist policies centered, in part, on the fact that the Constitution did not explicitly give such power to the government. The Louisiana Purchase seemingly put Jefferson in a position of either supporting the idea of "loose construction" or losing the opportunity to gain the territory.<sup>12</sup>

The constitutionality of the Purchase dogged Jefferson during the summer of 1803. Although he considered the Purchase desirable, even necessary for the growth of the

United States, the Constitution did not specifically deal with the annexation of foreign territory. In a letter to Pennsylvania Republican leader John Dickinson, Jefferson wrote:

There is a difficulty in this acquisition which presents a handle to the malcontents among us....The general government had no powers but such as the constitution has given it; and it has not given it a power of holding foreign territory, and still less of incorporating it into the Union. An amendment...seems necessary for this. In the meantime we must ratify & pay our money, as we have treated, for a thing beyond the constitution, and rely on the nation to sanction an act done for its great good, without its previous authority.<sup>13</sup>

The amendment Jefferson proposed would make Louisiana part of the United States and gave all white inhabitants the same rights as other American citizens. The Secretary of the Treasury, Albert Gallatin, argued that an amendment was not needed because the power of approving treaties belonged to the senate. Though the treaty enlarged American territory, it was nevertheless a treaty. Breckinridge, Nicholas, and other leading Republicans also opposed an amendment. With the time limit of six months prescribed in the treaty soon to expire, events persuaded Jefferson to put aside ideological considerations and pass the matter on to the senate. The popularity of the Louisiana Purchase with voters and politicians assured overwhelming ratification of the treaty. In the month prior to the convening of the Senate, Jefferson commented to Wilson C. Nicholas on his change of heart on the Constitution: "I acquiesce with satisfaction; confiding, that the good sense of our country

will correct the evil of construction when it shall produce ill effects."<sup>14</sup> Jeffersonian democracy could reconcile itself with "loose construction."

The issue of constitutionality became, as Jefferson feared, one of several the Federalist opposition used to try to prevent smooth passage of the bills associated with the treaty ratification. Others were the unusually large amount of money involved in the transaction and the uncertain title to Louisiana. Two other arguments for not accepting Louisiana consisted of the questionable constitutionality of extending citizenship to natives of Louisiana and commercial privileges granted to the French under the treaty. Finally, the acquisition of Louisiana had the potential to break up sectional harmony of national politics. The Federalists took the offensive, with the Republicans forced to defend their position on Louisiana.<sup>15</sup>

An analysis of the roll calls involving the ratification and possession of Louisiana results in clear-cut conclusions. The votes were cast mainly along party lines. On the Ratification of the Louisiana Purchase (see Table I), all Republicans voted for ratification and all Federalists present voted against it. All the Republicans voted for the bill authorizing Jefferson to take possession of Louisiana and appoint a temporary territorial government for the region and the bill authorizing payment for Louisiana. Within the Federalist party, however, there were signs of a split between the die-hards and those with a

more moderate position. A comparison of the Guttman scaling positions of the senators, especially those of the "moderate" Federalists, with their stances taken during the debates on the bills, shows that their attitudes on the floor of the Senate match their voting patterns.

An examination of the backgrounds (see Tables II and III) of the senators in the voting blocs ("Support," "Moderate," and "Oppose") provides possible explanations for the voting patterns revealed in the roll calls. Those assigned to the "Support" position were Republicans representing all sections of the nation. All had previous experience in state and federal politics. The Republican party in the Senate had a rich mixture of men with varied backgrounds in regards to occupation, education, and service in the American Revolution. On the issue of acquiring Louisiana, the diverse membership of the Republicans found a common cause.

All senators in the "Oppose" bloc, like their Republican counterparts, had past experience in state and federal government. All were well-educated Federalists from New England with backgrounds in law. The "Moderate" bloc was also made up of Federalists. These senators differed from their fellow Federalists in that they were younger and had less political experience. The "Moderates" were of the generation that came of political age after the American Revolution. All of the "Moderate" Federalists became active in politics about ten years later than did the other

TABLE II

LOUISIANA PURCHASE VOTING BLOCS:  
PARTY ALIGNMENTS

	Support	Moderate	Oppose
Republican	95.6% (22)	16.7% (1)	0.0 (0)
Federalist	4.4% (1)	83.3% (5)	100.0% (3)
Total	100.0% (23)	100.0% (6)	100.0% (3)

TABLE III  
LOUISIANA PURCHASE VOTING BLOCS:  
SECTIONAL ALIGNMENTS

	Support	Moderate	Oppose
New England	17.4% (4)	50.0% (3)	100.0% (3)
Mid-Atlantic	21.7% (5)	33.0% (2)	0.0 (0)
South	39.2% (9)	0.0 (0)	0.0 (0)
West	21.7% (5)	17.0% (1)	0.0 (0)
<u>Total</u>	<u>100.0% (23)</u>	<u>100.0% (6)</u>	<u>100.0% (3)</u>

See Table IV for list of states in each section.



TABLE IV  
STATE DESIGNATIONS

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States in Sections			
New England	Mid-Atlantic	South	West
Connecticut	Delaware	Georgia	Kentucky
New Hampshire	New Jersey	Maryland	Ohio
Massachusetts	New York	North Carolina	Tennessee
Rhode Island	Pennsylvania	South Carolina	
Vermont		Virginia	

States are assigned to sections based on how those states are associated in twentieth century American history texts.

#### Slave and Free States

Slave	Free
Delaware	Connecticut
Georgia	Massachusetts
Kentucky	New Hampshire
Maryland	New Jersey
North Carolina	New York
South Carolina	Ohio
Tennessee	Pennsylvania
Virginia	Rhode Island
	Vermont

States considered as Slave States in this table are those where slavery was legal and loosely regulated by the state government; Free States where slavery was illegal or regulated so that it was dying out.

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Federalists in the Senate. With an average age of eight years younger than those in the "Oppose" bloc, the "Moderates" were too young to have served in the Revolution. These factors might explain the tendency of the "Moderate" Federalists to vote with the Republicans on accepting Louisiana. This younger generation of Federalists was seemingly more politically flexible than the older "hard-line" party members. These findings corroborate those of David Hackett Fischer in his study The Revolution of American Conservatism. Fischer contends that in the Jeffersonian era there was an ideological split in the Federalist party between older and younger party members.<sup>16</sup>

Debate on the acquisition of Louisiana outlined the basic arguments for and against the treaty. The debate over the bill paying France for Louisiana (Roll Call 1) became the specific occasion when both parties made extensive speeches. The senators left no record of debate during consideration of the Louisiana Purchase treaty (Roll Call 3) and the Possession Bill (Roll Call 2). For the Federalists, objections to Louisiana were made on several points, for which the Republicans had counter-points. An interesting note to the debates can be seen in the reverse in party ideology in which the Federalists appeared to support "strict construction" and the Republicans "loose construction."

Senators William Wells and Samuel White, both of Delaware, and Timothy Pickering of Massachusetts carried

most of the burden of speaking for the Federal party, supported by speeches by Adams and Tracy. Though Plumer did not speak, the record left in his journals augmented the Federalist position. For Samuel White of Delaware, criticism of the purchase centered on its unconstitutionality and the fact that Spain vigorously protested France's right to sell Louisiana as contrary to the terms of Retrocession of 1800. White maintained that an amendment to the Constitution would be the only way to make Louisiana acceptable:

But as to Louisiana, this new, immense, unbounded world, if it should ever be incorporated into the Union, which I have no doubt can be done but by altering the Constitution, I believe it will be the greatest curse that could at present befall us; it may be productive of innumerable evils, and especially of one that I fear even to look upon.<sup>17</sup>

This fear was that Louisiana was too far west for Washington to govern and would eventually develop ties away from the eastern United States. Other Federalists repeated White's views.<sup>18</sup>

William Wells, Delaware's other senator, voiced the same fears over whether Spain would give up Louisiana peacefully and that paying fifteen million dollars for land of questionable title would be foolish. Also agreeing was the senator from Massachusetts, Timothy Pickering; he "never doubted the right of the United States to acquire new territory" but felt that the complexities caused by Spanish protests over the sale of Louisiana might lead to war.<sup>19</sup> Fellow Federalist Uriah Tracy of Connecticut based his

arguments on the third and seventh articles of the Purchase treaty which he held to be unconstitutional. The third article extended the rights of American citizens to those living in Louisiana and the seventh article gave French shipping the right to the port at New Orleans duty-free for twelve years. Tracy continued, noting that nowhere in the constitution did the national government have the right to agree to these proposals. Also bringing Louisiana into the Union would diminish the political power of the "Northern States."<sup>20</sup>

Both William Plumer of New Hampshire and John Quincy Adams of Massachusetts originally agreed that a constitutional amendment could solve the constitutional questions posed by the Purchase. In his Memorandum, Plumer touched on all the issues brought forward by his Federalist colleagues in the Senate. He wrote:

A republican government established over a large extensive country cannot long exist...the constitution of the United States was formed for the express purpose of governing the people who...should live within the limits of the United States. It never contemplated the accession of a foreign people, or the extension of territory.<sup>21</sup>

As the legislation on Louisiana passed despite Federalist objections, the opposition had two choices: to continue opposition or to support the merging of Louisiana into the United States. Adams, Plumer, and Simeon Olcott, Plumer's colleague from New Hampshire, decided to support the Republican majority on the Louisiana Payment Bill. Citing opinions given by Breckinridge and others on "the

importance to this Union of the possession of the ceded country... and...[having] no adequate argument for the rejection of this bill"<sup>22</sup> Adams voted for the payment for Louisiana. Seeing the uselessness of further opposition, Plumer wrote:

I do not say that the ratification of the treaty has made it a constitutional treaty, if its articles are in violation of the Constitution....but its ratification has bound the government to carry it into effect so far as they have authority to do so. Perish the eleven millions of stock; but preserve the faith of the nation....I am now ready to pass the law. I am willing that the President should decide whether he receives such possession of the Country as will justify him in delivering the stock to the assignees of France....I will give him the same authority as I would do were he the man of my own choice.<sup>23</sup>

Though it did not please this group of Federalists, ratification had been accomplished and now it was time to move on to more pressing matters dealing with the governing of the new province.

The motivation of White and Wells to oppose ratification, support the Possession Bill, and then change their minds and vote against the Payment Bill remains uncertain. The senators from Delaware did not comment on the record for their votes. This reversal confused their Republican counterparts in the Senate. Answering Wells, Senator James Jackson of Georgia replied:

Every argument they have made use of would better have applied at the time the treaty was on its passage for ratification [of the Louisiana Purchase treaty], or at the time of the passage of the bill for taking possession of Louisiana; and it appears extraordinary now [during debate on the Payment Bill, the final piece of legislation],

after voting, if not for the treaty, for that bill, to see those gentlemen rise to oppose the conditions to be performed on our part, when France has issued the necessary orders to comply, on her part.<sup>24</sup>

Though unprovable, the more orthodox Federalists might have convinced the two to return to the party line. The fact that "a number of the Connecticut and Massachusetts members of Congress" met two days before the last important vote on the Payment Bill, suggests a party caucus on organizing opposition to the measure. The arguments used in the debates less than forty-eight hours later appear similar among those Federalists speaking, even those like Adams who voted opposite to the other Federalists.<sup>25</sup>

Rising up in the Senate to rebutt charges of the treaty's unconstitutionality, the leaders of the Republican party put forth their views on the subject. Jackson, Breckinridge, Nicholas, and John Taylor provided the Republican response. All had favored obtaining Louisiana for years and did not support a constitutional amendment. On the question of who owned Louisiana, Jackson pointed to the order sent out from Madrid in 1802 which showed that Spain had accepted the retrocession to France. This made Louisiana Napoleon's to dispense with. Any problems between France and Spain were not the concern of the United States.<sup>26</sup> Agreeing was Jonathan Dayton of New Jersey, who Jefferson had earlier sent to New Orleans to find out about the Spanish-French conflict there. Dayton said that:

When at New Orleans in July last, I obtained...a copy of that royal order, and can aver that it

absolutely directs possession to be given without reservation or condition. It is not, and cannot be denied that the lately ratified treaty of Paris transfers to us completely all the title acquired by France in virtue of the first treaty [Retrocession treaty of 1800] and order alluded to.<sup>27</sup>

The political theorist of the Republicans, John Taylor, used Article Four of the Constitution to refute questions over the constitutionality of the purchase. This article gave Congress the power to "'dispose of and regulate the territory belonging to the United States'" and the Constitution also gave the Senate the right to ratify foreign treaties. Louisiana had been obtained as territory by a treaty duly ratified by the Senate. Taylor concluded that because Louisiana was now American, Congress could legally extend commercial and citizenship privileges in keeping with the treaty's provisions.<sup>28</sup>

The preeminent spokesman of the West, John Breckinridge spoke on the importance of the purchase to those Americans living in the Mississippi River valley. The need for American control of New Orleans and the Mississippi River far out-weighed any quibbling over legal issues. The national government under the Federalists had ignored the rights of the westerners and now that the West realized its goal, the Federalists were complaining. He pointed out that only a year earlier the Federalists had wanted war to get Louisiana and had pretended friendship with the West. Now that peaceful negotiations under a Republican administration had succeeded, the Federalists took the opposite stand on

Louisiana.<sup>29</sup> In their speeches, Nicholas and William Cocke of Tennessee corroborated these views. Getting the final word in before the vote on the bill was taken, Cocke commented, "who is so fearful of the day in which the Western people shall give laws to the Union...if ever it should happen, I hope they will be at least as just and salutary as they were when that honorable gentleman and his friends [the Federalists] formed the political majority in this House."<sup>30</sup>

By the end of the first week of November of 1803, legislation on the Louisiana treaty had been passed and Jefferson prepared to take possession of the Mississippi River valley. The governor of Mississippi Territory, William C. C. Claiborne, was appointed governor of Louisiana and the commander of American forces in the West, James Wilkinson, was ordered to New Orleans to support American occupation of the territory if required. On November 20, 1803 Pierre C. Lassualt, the French Prefect in New Orleans, took possession of the province in the name of France and on December 20 turned Louisiana over to the American delegation. Now the work of setting up a territorial government for Louisiana could begin.<sup>31</sup> Later in the Congressional session, the issues of slavery and the form Louisiana's territorial government was to take brokeup the Republican consensus and inter-party cooperation increased.



## ENDNOTES

<sup>1</sup> Morton Borden, Parties and Politics in the Early Republic, 1789-1815 (New York, New York: Thomas Y. Crowell Company, 1967), pp. 43-56.

<sup>2</sup> Drew R. McCoy, The Elusive Republic: Political Economy in Jeffersonian America (Chapel Hill, North Carolina: University of North Carolina Press, 1980), pp. 121-124.

<sup>3</sup> Caleb Perry Patterson, The Constitutional Principles of Thomas Jefferson (Austin, Texas: University of Texas Press, 1953), pp. viii-ix.

<sup>4</sup> Thomas Jefferson to Robert R. Livingston, 18 April 1803, Jefferson Papers.

<sup>5</sup> Biographical Directory of the American Congress, 1774-1971 (Washington, D.C.: United States Government Printing Office, 1971), pp. 65-71, 546, 839; Gerard H. Clarfield, Timothy Pickering and the American Republic (Pittsburgh, Pennsylvania: University of Pittsburgh Press, 1980), pp. 218-220; Lynn W. Turner, William Plumer of New Hampshire, 1759-1850 (Chapel Hill, North Carolina: University of North Carolina Press, 1962), p. 94. Other biographical sources consistently cite Dayton as being a member of the Federalist party. As he supported Republican policies in 1803-1805, Dayton is treated as a de facto Republican in this thesis.

<sup>6</sup> Lowell H. Harrison, John Breckinridge: Jeffersonian Republican (Louisville, Kentucky: Filson Club, 1969), pp. 75-77; Eugene Tenbroeck Mudge, The Social Philosophy of John Taylor of Caroline: A Study in Jeffersonian Democracy (New York, New York: Columbia University Press, 1939), p. 3; Fredrick B. Tolles, George Logan of Philadelphia (New York, New York: Oxford University Press, 1953; reprint ed., New York, New York: Amo Press, 1972), p. 122; Avis M. Pitcher, "John Smith, First Senator from Ohio and His Connections with Aaron Burr," Ohio State Archaeological and Historical Quarterly 45 (January 1936):72.

<sup>7</sup> Alfred B. Sears, Thomas Worthington: Father of Ohio Statehood (Columbus, Ohio: Ohio State University Press, 1958), pp. 74, 75; Harrison, John Breckinridge, pp. 7, 78, 126; George Dargo, Jefferson's Louisiana: Politics and the Clash of Legal Traditions (Cambridge, Massachusetts:

Harvard University Press, 1975), p. 39; John S. Pancake, "The General from Baltimore: A Biography of Samuel Smith" (Ph.D. dissertation, University of Virginia, 1949), pp. iv, 84, 137; C. Edward Skeen, John Armstrong, Jr., 1758-1843: A Biography (Syracuse, New York: Syracuse University Press, 1981), p. 44; James Sterling Young, The Washington Community, 1800-1820 (New York, New York: Columbia University Press, 1966), pp. 87-98; United States Congressional Directories, 1789-1840, ed. Perry Goldman and James S. Young (New York, New York: Columbia University Press, 1973), pp. 41-43; Noble E. Cunningham, Jr., The Process of Government Under Jefferson (Princeton, New Jersey: Princeton University Press, 1978), pp. 283-287.

<sup>8</sup> All statistical information presented was compiled by the author based on data provided by the Biographical Directory of Congress and the Dictionary of American Biography; Biographical Directory, p. 760.

<sup>9</sup> Circular Letters of Congressmen to Their Constituents, 1789-1829, ed. Noble Cunningham, 4 vols. (Chapel Hill, North Carolina: University of North Carolina Press, 1978), I:374.

<sup>10</sup> United States Congressional Rollcall Voting Records, 1789-1984. Inter-University Consortium for Political and Social Research #0004. The data and tabulations utilized in this thesis were made available in part by the Inter-University Consortium for Political and Social Research, the data originally collected by Carroll R. McKibbin. Neither the original collector nor the Consortium bear any responsibility for the analyses or interpretations presented here. Necessary corrections in the data base for the Senate, 8th Congress, 1st Session made by the author. Due to the closeness of their voting pattern the Smith/Wells/White and Adams/Olcott/Plumer voting blocs were collapsed into the "Moderate" bloc.

<sup>11</sup> Annals of the Congress of the United States, Eighth Congress, First Session, p. 308; Harrison, John Breckinridge, p. 163; Everett S. Brown, Constitutional History of the Louisiana Purchase, 1803-1812 (Berkeley, California: University of California Press, 1920; reprint ed., Clifton, New Jersey: Augustus M. Kelley Publishers, 1972), pp. 22-23.

<sup>12</sup> Patterson, Constitutional Principles of Jefferson, pp. viii-x; Borden, Parties and Politics, pp. 44-58.

<sup>13</sup> Thomas Jefferson to James Dickinson, 9 August 1803, Jefferson Papers.

<sup>14</sup> Thomas Jefferson to Wilson C. Nicholas, 7 September 1803, Jefferson Papers.; Brown, Constitutional History, pp. 26, 21-22, 28-29; Harrison, Breckinridge, p. 163;

<sup>15</sup> Annals, 8th Cong., 1st Sess., pp. 31-38, 43-70.

<sup>16</sup> David Hackett Fischer, The Revolution of American Conservatism: The Federalist Party in the Era of Jeffersonian Democracy (New York, New York: Harper and Row Publishers, 1965), pp. xix, 227. Fischer also included sketches of leading Federalists, some of who were present in the Senate in 1803-1804. These men were typified as falling into one of three groups: "Old School" (more experienced, conservative members), "Young Federalists" (less experienced, more willing to use new ideas), and "Transitional" (had traits belonging to both preceding groups). "Old School" members: Olcott, Pickering; "Young Federalists": Adams, Plumer, Wells; "Transitional" members: Dayton, Hillhouse, Tracy. These designations seem to hold true on the issue of Louisiana.

<sup>17</sup> In February 1804 the Spanish Crown officially gave up all claims to Louisiana. Annals, 8th Cong., 2nd Sess., p. 1234; John Quincy Adams, Memoirs of John Quincy Adams, ed. Charles Francis Adams (Philadelphia, Pennsylvania: J.B. Lippincott and Company, 1874), I:264, 266; Annals, 8th Cong., 1st Sess., pp. 31-34.

<sup>18</sup> Annals, 8th Cong., 1st Sess., pp. 31-34.

<sup>19</sup> Ibid., pp. 35-37, 44-46, 54-57.

<sup>20</sup> Ibid.

<sup>21</sup> William Plumer, Memorandum of Proceedings in the United States Senate, 1803-1807, ed. Everett Somerville Brown (New York, New York: The Macmillan Company, 1923), pp. 6-7.

<sup>22</sup> Annals, 8th Cong., 1st Sess., p. 68

<sup>23</sup> Plumer, Memorandum, p. 32.

<sup>24</sup> Annals, 8th Cong., 1st Sess., p 37.

<sup>25</sup> The possible motivations of White and Well are not addressed in contemporary accounts or in later secondary works; Adams, Memoirs, p. 268. While it can neither be proven nor disproven, this explanation seems as plausible as any other. The idea of informal party caucuses during the Jeffersonian administration is discussed in Cunningham, Process of Government Under Jefferson, pp. 280-282.

<sup>26</sup> Annals, 8th Cong., 1st Sess., pp. 38-39.

<sup>27</sup> Plumer, Memorandum, pp. 28-29; Annals, First Session, p. 48.

73. <sup>28</sup> Annals, 8th Cong., 1st Sess., pp. 50-51, 59-61, 68-72,

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Brown, Constitutional History, pp. 90-92.

## CHAPTER IV

### EXTENSION OF SLAVERY INTO LOUISIANA

Few domestic policies in the United States did not touch the troublesome issue of slavery. The absorption of Louisiana was no exception. The spread of slavery into the Old Southwest made its expansion into the territories of the Louisiana Purchase inevitable. This extension of slavery into Louisiana divided senators according to whether they represented free or slave states. The slave state/free state split overrode over party and sectional loyalties. The handling of the issue of extension of slavery into American frontier territories prior to the Louisiana Purchase set precedents for the nation's newest acquisition.

With the expansion of the frontier west towards the Mississippi River, the question arose about what limits, if any, the federal government would put on the expansion of slavery into the new territories. The major piece of legislation affecting the West was the Northwest Ordinance of 1787. An attempt to prohibit slavery in the entire West in an earlier version authored by Thomas Jefferson had failed in the Congress in 1784. The Ordinance of 1787 set out guidelines for making new states out of American unorganized territory north of the Ohio River. Population

requirements for statehood were enacted. The people of the territory were to have the same protection of law and freedoms as citizens in the states enjoyed. Importantly, slavery was forbidden in the territory; states carved out of the territory would come into the United States as free states. The South supported the Ordinance as it only dealt with a part of the West which did not draw significant southern immigration. To placate potential southern opposition to the bill, a section was included that allowed for the return of fugitive slaves escaping into the territory.<sup>1</sup>

The Northwest Territory was divided into two units, Ohio Territory (that would become the state of Ohio) and Indiana Territory (Indiana, Illinois, and the rest of the Northwest Territory). Ohio became a state in 1803, just in time for the first session of the Eighth Congress. The states made out of both territories came in as free states. The slave populations of the areas were never very large and the climate was not conducive to plantation agriculture. Ohio, in particular, attracted settlers with anti-slavery views from both free and slave states. The Ohio state constitutional convention in 1802 specifically abolished slavery in the state. The convention also forbade any further influx of either slaves or free Negroes. Those already living in Ohio as free men were not to have the same political rights as free whites. The majority of Ohio's leaders in 1802-3 were against slavery, but were also

against equal rights for free blacks. Indiana followed Ohio's lead in regard to slavery, though the minority seeking to make Indiana a slave state was larger than in Ohio. Efforts to persuade Congress to allow slavery in Indiana (which might encourage more immigration) were unsuccessful. The territory also presented a special case because the slaves belonging to French and British citizens living in the area prior to its incorporation into the United States were to remain unmolested according the federal government's interpretations of the agreements that had terminated French and English claims to the area. However, no new slaves could be brought into the territory. Slavery gradually died out in the Indiana Territory, whose components were admitted as free states during the 1810s and 1820s. The idea of freeing slaves of foreign nationals, made citizens by annexation, was never brought up again, even in the case of Louisiana.<sup>2</sup>

Kentucky and Tennessee were the first two western states settled and admitted into the United States. Both states had been settled in the 1770s and 1780s, becoming states in 1792 and 1796 respectively. The majority of the settlers were from Virginia or the Carolinas and had brought their slaves with them. Consequently, the new state constitutions protected slavery in Kentucky and Tennessee.<sup>3</sup>

The Old Southwest, later the Mississippi Territory (present day Alabama and Mississippi) was set up along lines similar to the Northwest Territory in 1798. The major

difference from the organization of the Northwest Territory was that the states made out of Old Southwest could enter as slave states. The land was perfect for expansion of plantation agriculture and southern interest in the region, especially from Georgia, had begun even before the Revolution. The few voices proposing that slavery be banned in the Southwest as it had in the Northwest could not overcome southern determination to oppose any limitations on expansion. Though slavery was permitted in the territory, the foreign slave trade was prohibited. In the spring of 1804, the political debate concerning further extension of slavery in the West was to center around Louisiana.<sup>4</sup>

Slavery in Louisiana was different in many respects from its American counterpart. The French Code Noir gave slaves in Louisiana more social rights than they had in the southern United States. In theory, the slaves were protected from arbitrary abuse from their masters. The most important feature of these slave regulations was that slaves could obtain their freedom rather easily. Once free, the former slaves could take their place in Louisiana society. Though not fully equal with whites, the freemen could claim the same legal rights.<sup>5</sup>

By the time of American occupation of Louisiana in 1803, thirty years of slavery under the Spanish had made the institution as it existed there unacceptable to American slaveholders. Masters had the right to punish disobedient slaves, but the slaves could appeal to Spanish authorities



if mistreatment took place. Masters could free slaves with a minimum of legalities and slaves were allowed to purchase their freedom if their master was agreeable to the financial arrangements. Free blacks, whether born to free parents or freed slaves, had the same legal standing as all other Spanish citizens. Free blacks were welcomed into the military and several companies of all-black militia were formed. After territorial government of Louisiana was set up in 1804, a slow erosion of the rights of all blacks began.<sup>6</sup>

Louisiana presented a special case for the Senate. For the first time, the United States acquired a territory with an established European population and culture. Slavery was firmly rooted there and the inhabitants were guaranteed the same property rights under the terms of the Purchase Treaty as they enjoyed previously under the Spanish. This seemingly assured the right of the populace to hold slaves. The slave trade, both foreign and domestic, was unregulated in Louisiana. Also slaves in the province were treated more generously than in the United States.

As part of the Louisiana Territorial Government Bill, the Senate in the spring of 1804 debated the issue of extension of slavery into Louisiana. The term "extension of slavery" in regards to Louisiana denotes any importation of slaves (whether by immigrants or professional slave traders) into the territory once it became part of the United States in 1803. There were nine roll calls associated with the

extension of slavery into Louisiana. These roll calls reveal interesting voting patterns.

One set of amendments to the section of the Territorial Government Bill regulating slavery dealt with setting limits on the slave trade in Louisiana; another addressed whether immigrants from slave-holding states could bring their slaves with them to settle in Louisiana. Roll calls 2, 8, and 9 (see Table V) were taken on the subject of the slave trade. The Senate passed Roll Call 8 which closed Louisiana to the domestic slave trade from other states in the Union. Roll call 9 (which also passed) prohibited the foreign slave trade in Louisiana. Roll Call 2, which failed to pass, would have prevented the importation into Louisiana of any slaves from states engaged in the foreign slave trade. This amendment was directed at South Carolina which was the only state at the time to allow its citizens to engage in the foreign slave trade. The second group of roll calls dealt with allowing settlers to bring their slaves with them to Louisiana. Included in this group were roll calls 4, 5, and 7. Roll call 5 restricted the importation of slaves into the territory to those in the possession of owners actually intending to settle there. Roll calls 4 and 7 were unsuccessful attempts to strike this proposal out of the bill.

Roll calls 1, 3, and 6 concerned other attempts to limit the extension of slavery. All these amendments failed to pass. Roll Call 1 was an amendment of an amendment which

TABLE V  
EXTENSION OF SLAVERY: VOTING BLOCS<sup>7</sup>

Senator	State	Party	Roll Calls								
			1	2	3	4	5	6	7	8	9
Adams	Mass.	Fed.	+	0	+	-	+	0	0	+	+
Baldwin	Ga.	Rep.	-	+	+	+	+	+	+	+	+
*Jackson	Ga.	Rep.	-	+	+	+	+	+	-	+	+
Dayton	NJ	Fed.	0	+	+	0	+	+	+	+	0
Anderson	Tenn.	Rep.	+	+	+	+	+	+	+	-	-
Cocke	Tenn.	Rep.	+	+	+	+	-	+	+	-	-
*Nicholas	Va.	Rep.	+	+	+	+	+	+	+	-	-
*Stone	NC	Rep.	+	0	0	+	+	+	+	0	-
*Venable	Va.	Rep.	+	+	+	+	+	+	+	-	-
Pickering	Mass.	Fed.	+	0	+	-	+	0	0	-	-
Smith, J.	Ohio	Rep.	+	-	+	+	+	-	+	-	-
Armstrong	NY	Rep.	+	+	+	+	-	+	-	-	-
*Breckinridge	Ky.	Rep.	+	+	+	+	-	+	-	-	-
Condit	NJ	Rep.	+	+	+	+	-	-	-	+	-
*Smith, S.	Md.	Rep.	-	+	+	+	-	-	-	+	0
Wells	Del.	Fed.	+	0	-	+	-	-	-	-	-
White	Del.	Fed.	+	-	+	0	-	-	-	-	-
*Franklin	NC	Rep.	+	+	+	-	-	-	-	-	-
Maclay	Penn.	Rep.	+	+	+	-	-	-	-	-	-
Bradley	Vt.	Rep.	-	+	-	-	-	-	-	-	+
Ellery	RI	Rep.	-	+	-	-	+	-	-	+	+
*Potter	RI	Rep.	+	+	-	-	-	-	-	-	-
Smith, I.	Vt.	Rep.	-	+	-	-	0	-	-	-	+
Worthington	Ohio	Rep.	+	0	-	-	-	0	0	-	-
*Brown	Ky.	Rep.	+	-	-	-	-	-	-	-	-
Hillhouse	Conn.	Fed.	+	-	-	-	-	-	-	-	-
Logan	Penn.	Rep.	+	-	-	-	-	-	-	-	-
Olcott	NH	Fed.	+	-	-	-	-	-	-	-	-
Plumer	NH	Fed.	+	-	-	-	-	-	-	-	-
*Wright	Md.	Rep.	0	-	0	-	-	-	+	0	0

Coefficient of Reproducibility: .915

TABLE V (Continued)

\* Denotes senators who owned slaves as of 1800. Data provided by the United States Census of 1800 and biographical sources.

## KEY

Roll call 1: January 26, 1804. To amend S. 23 (the Louisiana Territorial Government Bill), by striking out of the amendment the words "without the limits of the United States" in order to insert in lieu the words "for sale" so if amended the amendment would forbid the bringing of slaves into the territories from any place, a division being called for. (Failed, 6-22)

Roll call 2: February 17, 1804. To amend S. 23, by adding to part of the 10th section a provision prohibiting the importation of slaves from any state authorizing their importation from any foreign part or place. (Failed, 8-13)

Roll call 3: January 30, 1804. To amend S. 23, by adding to section 8, that no male person, brought into said territory (Louisiana) after a certain date can be held by law to serve for more than the term of one year as a servant, slave, or apprentice, after he attains the age of 21 years; nor female after she attains the age of 18. (Failed, 11-17)

Roll call 4: January 31, 1804. To amend S. 23 by striking out the last division of amendment which proposes that no slaves shall be introduced into said territory, except by bona-fide owners moving into said territory for actual settlement. (Failed, 13-15)

Roll call 5: February 1, 1804. To amend S. 23 by providing that no slaves be directly or indirectly introduced into said territory except by a citizen of the United States removing into said territory for actual settlement and being at the time of removal a bona-fide owner of such slaves. (Passed, 18-11)

Roll call 6: February 17, 1804. To amend S. 23 by striking out of section 10, the part which provides that every slave imported or brought into said territory, contrary to the provisions of this act shall receive his freedom. (Failed, 11-17)

Roll call 7: February 17, 1804. To amend S. 23 by striking out of section 10, the words "and no slave or slaves, shall directly or indirectly be introduced into said territory, except by a bona-fide owner removing into the territory for actual settlement. (Failed, 9-19)

Roll call 8: January 30, 1804. To amend S. 23, by adding to

## TABLE V (Continued)

the end of section 8, that it shall be unlawful for any person to import slaves into said territory, from any place within the United States. (Passed, 21-7)

Roll call 9: January 26, 1804. To agree to amend S. 23, which amendment makes it unlawful for any person to import slaves into said territory from any place outside the United States. (Passed, 21-6)

if passed would have prohibited any importation of slaves into Louisiana from any source. The goal of Roll Call 3 was to set the number of years that a slave could be held before he automatically received his freedom. This amendment would have the effect of gradually emancipating all slaves already in or brought to Louisiana. Roll Call 6 would have freed all slaves brought into Louisiana illegally under the section of the Territorial Government Bill which limited importation to the slaves of settlers moving to reside in the area.

The final amendments to the section of the Territorial Government Bill regarding slavery illustrated the limits of slavery that the Senate found acceptable. The only way slavery could expand into Louisiana was if the slaves were the property of the settlers moving to reside in the territory. No new slaves could be brought in as a result of the slave trade. While Louisiana would not be closed to slavery, neither would it be opened to unrestrained growth. The final version of the Louisiana Territorial Government Act also freed any slaves brought into the territory contrary to the act. The law was to apply to all slaves illegally imported after May 1, 1798. This moderate policy satisfied those wanting to see Louisiana as a slave state and those seeking to attack the slave trade.<sup>8</sup>

Three distinct voting blocs are discernible from the senators' voting patterns (see Table V). Senators assigned to the "Support" bloc voted to allow unrestricted extension

of slavery into Louisiana, which included both the slave trade and those slaves brought by immigrants. Members of the "Oppose" bloc sought to prohibit any extension whether by the slave trade or immigration. The "Moderate" voting bloc was made up of those senators who voted against the slave trade, but believed that American settlers immigrating to Louisiana should have the right to bring their slaves with them.

Analysis of the backgrounds of the individual senators (see Tables VI, VII, and VIII) shows a breakdown of affiliation. Federalists were found in all the voting blocs. The only Federalist senators from a slave state, Delaware, voted with their Republican opponents in the "Moderate" bloc. Likewise the Republican party had members scaling in all blocs. As with the Federalists, Republicans voted according to their location in free or slave states. Though it was true that senators from Southern slave states were more likely to promote extension of slavery into Louisiana and New Englanders favored restricting extension, slave/free (see Table VII) instead of section (see Table VIII) better describes voting behavior in the Senate. Though the states in the Southern and New England sections were exclusively slave and free states, respectively, the Western and Mid-Atlantic sections were made up of both slave and free states. The issue of extension of slavery into Louisiana proved a divisive one for the senators as different aspects of the subject resulted in a minority of

TABLE VI  
EXTENSION OF SLAVERY: PARTY  
ALIGNMENTS

	Federalist	Republican
Support	25.0% (2)	9.1% (2)
Moderate	37.5% (3)	54.5 (12)
Oppose	37.5% (3)	36.4 (8)
<u>Total</u>	<u>100.0% (8)</u>	<u>100.0% (22)</u>



**TABLE VII**  
**EXTENSION OF SLAVERY: SLAVE/  
 FREE STATE ALIGNMENTS**

	Slave	Free
Support	14.3 (2)	12.5 (2)
Moderate	71.4 (10)	31.2 (5)
Oppose	14.3 (2)	56.3 (9)
<u>Total</u>	<u>100.0% (14)</u>	<u>100.0% (16)</u>

See Table IV for list of Slave/Free states.

TABLE VIII  
EXTENSION OF SLAVERY: SECTIONAL ALIGNMENTS

	New England	Mid-Atlantic	South	West
Support	11.1% (1)	14.3% (1)	25.0% (2)	0.0% (0)
Moderate	11.1% (1)	71.4% (5)	62.5% (5)	66.7% (4)
Oppose	77.8% (7)	14.3% (1)	12.5% (1)	33.3% (2)
<u>Total</u>	<u>100.0% (9)</u>	<u>100.0% (7)</u>	<u>100.0% (8)</u>	<u>100.0%(6)</u>

See Table IV for list of states in sections.

senators who seemingly appeared to vote against their own section, party, and personal convictions.

Several interesting anomalies surface which merit investigation. Several slave state senators voted with their southern comrades to allow immigrant slave owners' importation of slaves into Louisiana, but voted to ban the domestic and foreign slave trade in Louisiana. The presence of Federalists in the "Support" bloc also raises interesting questions, as does the presence of slave owners in the "Oppose" bloc. Also one finds New Englanders voting against prohibiting the foreign slave trade.

In the "Support" bloc, John Quincy Adams of Massachusetts was the most interesting. His scale position seems to contradict his eloquent opposition to slavery later in his political career.<sup>9</sup> Adams's comments, recorded by William Plumer in his journal of Senate debates, reveal his attitude towards the issue of slavery and its extension into Louisiana. Speaking in the Senate during debate on the slavery section of the Territorial Government Bill, Adams said:

Slavery in a moral sense is an evil; but as connected with commerce it has important uses....The regulations offered to prevent slavery [Hillhouse's amendments] are insufficient, I shall therefore vote against them....I am opposed to slavery; but I have in this bill voted against the provisions introduced to prohibit and lessen it. I have done this upon two principles, 1. That I am opposed to legislating at all for that country-2. I think we are proceeding with too much haste on such an important question.<sup>10</sup>

Adams's belief that Congress had no right to make laws for

the territory without its citizens' consent was more important than denouncing slavery. This attitude put him in company with those who did not share his opposition to the institution of slavery.

The other Federalist senator in the "Support" bloc was Jonathan Dayton of New Jersey. On this issue he continued his support for the opinions of the dogmatic Republican senators from Georgia.<sup>11</sup> His arguments for extension echoed Jackson's: "Slavery must be tolerated, it must be established in that country [Louisiana], or it can never be inhabited."<sup>12</sup> Why Dayton would continually support Republican, and especially southern, interests in the Senate is an intriguing question. The senator from New Jersey had a long association in politics with both Baldwin and Jackson. Both Dayton and Baldwin served together in the Continental Congress and as delegates to the 1787 Constitutional Convention. All three men served together in the federal Congress in the early 1790s.<sup>13</sup> Dayton appears to have sympathized with the views of the Georgia senators though he belonged to a different party and section.

One of Dayton's comments concerning the prohibition of the slave trade in Louisiana provides a clue to why some of the senators in the "Moderate" bloc appear to have voted for immigrants' unrestricted importation of slaves into Louisiana, but against the domestic and foreign slave trade. Dayton held that if this trade was banned, "The slave holders in the United States will collect and send into the

country their slaves of the worst description."<sup>14</sup> In fact, several southern states, especially Virginia, had an oversupply of slaves rendering them "slave-poor." Senators Wilson C. Nicholas and Abraham Venable of Virginia, David Stone of North Carolina, and Joseph Anderson of Tennessee voted to ban the slave trade, but also voted against measures which allowed only immigrating slave owners to bring their slaves to Louisiana. Three of the senators were from slave states along the Atlantic coast where opportunities for plantation expansion were limited. In Tennessee and Kentucky, too, some slave owners were "slave-poor."<sup>15</sup> Banning the slave trade in Louisiana would allow slave owners to send unneeded slaves to new lands in care of agents of the slave owner. Once in Louisiana, the overseer could sell off surplus slaves bringing a higher price in a labor-starved market with no outside competition from other foreign or domestic sources of slaves. This opportunity was thwarted when the amendment allowing only immigrating slaveowners to bring in slaves passed.<sup>16</sup>

During his turn on the floor of the Senate, Joseph Anderson spoke for banning the slave trade in Louisiana because he believed that slavery was wrong and that any further expansion of the institution in the West would "prove a curse to us."<sup>17</sup> Another Republican, Nicholas of Virginia expressed his views saying, "I am for prohibiting the people of that country from importing slaves from foreign countries, and leave it optional with the government

of Louisiana...to prohibit it from the United States also, if they should think best."<sup>18</sup> Though he did not participate in the debate on the slave trade, William Plumer was not convinced that these senators' sentiments against the slave trade were entirely altruistic. As he wrote in his journal:

It is obvious that the zeal displayed by the Senate from the Slave States, to prohibit the foreign importation of Slaves into Louisiana, proceeds from the motive to raise the price of their own slaves in the market [sic]-and to encrease the means of disposing of those who are most turbulent and dangerous to them.<sup>19</sup>

Senator James Jackson touched upon two issues that other senators, regardless of voting bloc, agreed were valid concerns. There was a fear that freeing slaves in large numbers, or allowing unlimited extension of slavery across the United States might result in slave rebellions. The example of St. Domingue was known to all. Slave unrest on that French island, where blacks overwhelmingly outnumbered whites, resulted in a successful slave revolt and an overturning of the plantation society there. Many southerners, especially where slaves were in the majority, feared that any show of weakness on the part of masters or the government might precipitate slave revolts in the United States. Also the question came up as to whether Congress had the right to restrict slavery when it was legal in half the nation. As one might expect, Jackson, a rice planter himself, supported the views of his constituents who wanted minimal federal interference in their "peculiar institution."<sup>20</sup>

The voting patterns of three New England Republicans were also mystifying. The two senators from Vermont, Stephen Bradley and Israel Smith, and Christopher Ellery of Rhode Island supported most of Hillhouse's amendments on slavery extension, but voted against prohibiting the foreign slave trade (Ellery also voted against the prohibition of the domestic slave trade). In Ellery's case, participation of New England shipowners and financiers in the slave trade, especially the foreign trade, might explain his votes. Ellery (who was from Newport) might have had constituents who stood to lose from the closing off of new lands in Louisiana from the slave trade.<sup>21</sup> Bradley's and Smith's votes present a more difficult case, as Vermont had no direct contact with slavery or the slave trade. It is interesting to note that for the term of the second session of the Seventh Congress (1802-1803) both senators roomed with James Jackson of Georgia in the same boardinghouse. Aside from the fact that they were all Republicans, the three had little in common.<sup>22</sup> It is possible that Jackson might have influenced their views on the slave trade, if not on the institution of slavery itself. Though personally abrasive, Jackson was a persuasive speaker and tireless in his efforts to promote causes benefiting the deep south.<sup>23</sup>

Bradley at first was "in favor of extending slavery to that country, because it is a right they claim, and by the treaty we are bound to grant it to them," but as the debate dragged on, he changed his mind to support Hillhouse's

efforts to limit slavery there.<sup>24</sup> John Qunicy Adams in his Memoirs recorded what he believed to be Bradley's motive for voting in favor of the foreign slave trade:

"Bradley...moved to prohibit the admission of slaves altogether, as well from the United States as from abroad. The object was to defeat the thing by its own excesses, and made his abhorrence of all slavery on the ground of his argument to oppose partial prohibition."<sup>25</sup> Israel Smith commented that his vote against prohibiting the foreign slave trade was based on his belief that Congress could not legislate on the issue until after 1808 (as specified in the Federal Constitution) and that any laws made now would be unenforcible.<sup>26</sup>

Another Federalist senator voting with his usual opponents, this time in the "Moderate" bloc, was Timothy Pickering of Massachusetts. Pickering spoke at length stating his attitude towards the issue at hand. At the beginning of the debate over extension he "was favorably inclined to the admission of slavery in that territory."<sup>27</sup> In the course of the debate, the comments of other senators convinced him that slavery was not essential for agricultural growth in Louisiana, and that slavery would prove a burden to later generations of Louisianians.<sup>28</sup>

The senator responsible for the amendments limiting extension, James Hillhouse of Connecticut spoke out decrying the sectional divisions the heated debate on slavery was causing: "I did not expect so soon to hear on this floor



the distinction of eastern and northern, and southern men. Has it indeed come to this--are we to be designated by a geographical line!"<sup>29</sup> Several times during the debates some senators wanted their colleagues to avoid making decisions regarding slavery because of its potential to divide the Senate and the country. Others believed that a resolution to the problem of slavery was needed and the Senate needed to take a stand on it.<sup>30</sup> Writing on the subject several months later, William Plumer recorded his private thoughts in his journal: "This very subject of Negro slavery will I am convinced eventually produce a division of the United States."<sup>31</sup>

As might be imagined, the citizens of Louisiana were not pleased with how Congress decided to accommodate the issue of slavery. Most were unconcerned with whether American immigrants could bring in their own slaves. The major point of concern was the banning of the slave trade in Louisiana. Many Louisiana planters relied on the foreign slave trade for their source of labor. They were also resentful of governmental interference in what they considered one of their rights. Protests were sent to Congress but they were not successful. With legal importation barred, slave smuggling flourished in Louisiana until the Civil War.<sup>32</sup>

Once in power the American authorities in Louisiana faced a delicate situation. Black freemen were organized, armed, and not willing to give up the rights they enjoyed

under the Spanish. Newly-appointed Governor William C. C. Claiborne decided to leave the rights of the black, free militiamen as they had been. The black freemen continued to be a part of New Orleans society and once again showed their courage during the battle of New Orleans in 1815. Gradually, due to new laws, the number of black freemen declined and their rights dwindled away in the years up to the Civil War.<sup>33</sup>

The harsher American system replaced the beneficent attitudes of the Spanish towards slavery in Louisiana. Regulations from the American-dominated territorial government superceded the Code Noir and Spanish slave codes. As in the American South, slaves were at the mercy of their masters. Manumission and the practice of buying one's freedom were made more difficult.<sup>34</sup>

The divisive nature of the issue of slavery in the United States and foundations for later controversies can be seen in the Senate discussions of the issue. Several senators remarked on the controversy caused by the issue of slavery. All sections of the nation accepted slavery in the area surrounding lower Louisiana. By 1820, Louisiana and Arkansas had been admitted as slave states. Upper Louisiana, Missouri in particular, would become the focal point of the next major conflict in Congress over extension of slavery.

Despite all attempts to the contrary, slavery in Louisiana would be different from the rest of the South.

Louisiana would have the largest and most organized group of freemen. Due to Latin influence, slavery was harsh but not as constrictive as in other areas of the South. In the Senate during 1804, slavery continued to be one of the most controversial issues that could be considered. Voting in the Senate was mostly along slave/free lines, even at this early date. Unlike later congresses, members from slave states voiced opposition to the institution and voted to limit it. The dogmatic defense of slavery was not yet apparent. While solving the immediate problem of slavery and Louisiana, the senators of the Eighth Congress postponed the final settlement of the question of slavery in the West. The next order of business the Senate took up was the decision for the final structure of the territorial government of Louisiana, an issue which would prove as divisive as that of slavery.

## ENDNOTES

<sup>1</sup> United States Congress. House. The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America, by Francis Newton Thorpe, 7 Vols. (Washington, D.C.: United States Government Printing Office, 1909), II:957; Donald L. Robinson, Slavery in the Structure of American Politics, 1765-1820 (New York, New York: Harcourt-Brace-Jovanich, Inc., 1971), pp. 380-382, 385.

<sup>2</sup> Helen M. Thurston, "The 1802 Constitutional Convention and Status of the Negro," Ohio History 81 (Winter 1972): 15-37; "Slaves in Indiana Territory," Indiana History Bulletin 29 (May 1952): 80-82; American State Papers, ed. Walter Lowrie and Walter S. Franklin, 38 vols. (Washington, D.C.: Gales and Seaton, 1834), Misc. I: 387.

<sup>3</sup> Robinson, Slavery in American Politics, pp. 385-6; Lowell H. Harrison, John Breckinridge: Jeffersonian Republican (Louisville, Kentucky: Filson Club, 1969), pp. 98, 105.

<sup>4</sup> Robinson, Slavery in American Politics, pp. 386-387, 390-391; Brown, Constitutional History, p. 102.

<sup>5</sup> Charles Gayarré, Louisiana: Its Colonial History and Romance (New York, New York: Harper and Brothers, 1851), pp. 635-638.

<sup>6</sup> Annals, 8th Cong., 2nd Sess., pp. 1567-1570; Gayarré, Louisiana Colonial History, pp. 635-638; Marcus Christian, "Demand by Men of Color for Rights in Orleans Treaty," Negro Historical Bulletin 36 (February 1973): 55; Mathe Allain, "Slave Policies in French Louisiana," Louisiana History 21 (Spring 1980): 137.

<sup>7</sup> United States Congressional Rollcall Voting Records, 1789-1984. Inter-University Consortium for Political and Social Research #0004. In the "Support" bloc, Dayton was added to the Adams-Jackson bloc. Senators Anderson thru Maclay blocs were collapsed into the "Moderate" bloc. Finally the "Oppose" bloc is made up of the Bradley-Worthington and Brown-Wright blocs.

<sup>8</sup> Annals, 8th Cong., 1st Sess., p. 1297.

<sup>9</sup>The seeming contradiction of Adams's votes in light of his later stands against slavery is mentioned in his biography by Samuel Flagg Bemis, but Bemis makes no attempt to seek any possible motivation other than to quote Adams from Plumer's Memorandum. Samuel Flagg Bemis, John Quincy Adams and the Foundations of American Foreign Policy (New York, New York: Alfred A. Knopf, 1949), p. 122-123.

<sup>10</sup>Plumer, Memorandum, pp. 114, 126.

<sup>11</sup>On all the legislation surrounding Louisiana during 1803-1804, Dayton consistently voted with Baldwin and Jackson. Many of his comments were similar to views held by the two senators from Georgia on the issues debated. Dayton also appeared to be on close terms with Jackson. On atleast one occasion, he spoke out in defense of Jackson against Jackson's critics in both parties in the Senate. William O. Foster, James Jackson, Duelist and Militant Statesman, 1757-1806 (Athens, Georgia: University of Georgia Press, 1960), p. 177.

<sup>12</sup>Plumer, Memorandum, pp. 111-112.

<sup>13</sup>Congressional Biographical Directory, pp. 546, 839, 1177.

<sup>14</sup>Plumer, Memorandum, p. 112.

<sup>15</sup>Harrison, John Breckinridge, p. 108, 119-120.

<sup>16</sup>A study of American slaveowners who moved to Louisiana, bringing their slaves with them and the rate at which those slaves were then sold might reveal whether Louisiana presented an opportunity to alleviate the condition of slaveowners who were "slavepoor." Gerald Robinson in Slavery in the Structure of American Politics mentions the fact that Louisiana represented an opportunity for planters in Virginia to dispose of surplus slaves. He does not, however, offer an explanation for southern senators supporting prohibitions on both the domestic and foreign slave trade. Robinson, Slavery in American Politics, p. 399.

<sup>17</sup>Plumer, Memorandum, p. 115.

<sup>18</sup>Ibid., p. 129.

<sup>19</sup>Ibid., p. 130.

<sup>20</sup>Plumer, Memorandum, pp. 118-125; Robinson, Slavery in American Politics, pp. 180-200

<sup>21</sup>A study of Rhode Island shipping records of the period might show that local businessmen were indeed involved with the foreign, and possibly domestic, slave trade.

<sup>22</sup>Bradley, Smith, and Jackson were listed as the only boarders at Mr. Steele's boardinghouse during 1802-1803. United States Congressional Directories, 1789-1840, ed. Perry Goldman and James S. Young (New York, New York: Columbia University Press, 1973), p. 41-43.

<sup>23</sup>Jackson was also head of the Republican party in Georgia and a respected party leader in the deep south. Foster, James Jackson, pp. 127, 145-146.

<sup>24</sup>Plumer, Memorandum, p. 113.

<sup>25</sup>Adams, Memoirs, p. 293.

<sup>26</sup>Plumer, Memorandum, p. 121.

<sup>27</sup>*Ibid.*, p. 121.

<sup>28</sup>*Ibid.*

<sup>29</sup>*Ibid.*, p. 118

<sup>30</sup>*Ibid.*, pp. 111-132.

<sup>31</sup>*Ibid.*, p. 251.

<sup>32</sup>Brown, Constitutional History, p. 147; American State Papers, Misc. I, pp. 396-398.

<sup>33</sup>Christian, "Demand by Men of Color," p. 56; Laura Foner, "The Free People of Color in Louisiana and St. Domingue: A Comparative Portrait of Two Three-Caste Slave Societies," Journal of Social History 3 (Summer 1970): 411.

<sup>34</sup>*Ibid.*

## CHAPTER V

### LOUISIANA TERRITORIAL GOVERNMENT

The debate concerning the form and character of the territorial government for Louisiana continued in the Senate. The central issue was the degree to which the territorial government would be representative and democratic. Though the Northwest Ordinance set an example for the senators to follow in absorbing new lands into the United States, Louisiana was seen as a special case due to its status as the first "foreign" territorial annexation. The decisions reached on this subject in the spring of 1804 affected subsequent lands and peoples annexed to the United States. Voting on the amendments dealing with the territorial government was along party lines, with the Federalists united in their support for a democratic, representative government and the Republicans favoring a more restrictive form of territorial government. Within the Republican party, there was a split along sectional lines on just how restrictive the government was to be.

The Northwest Ordinance of 1787 was the blueprint under which territorial governments had been organized. In 1798, the Old Southwest was constituted as the Southwest Territory. The major difference between the two regions was

that slavery was prohibited in the former and legal in the latter. The Ordinance prescribed the type of territorial government and procedures for statehood. The territorial government included a federally appointed governor and judges. The governor was to oversee the government until there were five thousand eligible voters (free males over twenty-one) in the territory. These voters would then elect representatives meeting the property and residence requirements to a territorial legislature. This body would nominate candidates for congressional appointment to the Legislative Council, which was to act as the upper house of the legislature. Once the territorial government was established, both houses could elect a non-voting delegate to represent the territory in Congress. Other provisions of the Ordinance guaranteed the political and religious liberties of the citizens.<sup>1</sup>

The next territory organized was Louisiana. In many ways, Louisiana represented a different situation than did the other territories. Louisiana was "foreign" in every respect. The cultural, religious, and political heritage of the area seemed incompatible with that of Louisiana's new American rulers. The legislative and judicial structure posed an especially difficult problem for the new American territorial administration. The populace had no previous experience with representative government or with Anglo-American common law. Though dubious of how their land would fare under American control, many Louisianians



welcomed the liberties that came with American citizenship, a right guaranteed in the Purchase Treaty. Though the Senate vigorously debated the extent of the Louisianians' political rights, their right to the individual freedoms of American citizenship was never questioned.<sup>2</sup>

The first taste of government under American rule lasted four months. The bill authorizing President Jefferson to take possession of Louisiana also allowed him to set up a temporary territorial government. Jefferson appointed William C. C. Claiborne governor. Claiborne took office in December of 1803 after French control was relinquished. This temporary government was necessarily strict, though not harsh, as Claiborne was unsure whether the former French and Spanish subjects would accept American rule. Local business and political leaders were consulted, but had little influence in decision making. Americans held all important positions in the government. This administration lasted until the Congress made provisions for a permanent territorial government for Louisiana. In March and April of 1804 this new government was instituted, with Claiborne staying on as governor.<sup>3</sup>

By the standards of the Northwest Ordinance and the Southwest Territory Act, Louisiana had sufficient population to justify an elective legislature and a delegate to Congress. Those in Louisiana who had eagerly awaited their first experience with participatory democracy were disappointed with the final version of the Louisiana

Territorial Government Bill passed in the Senate. The huge land area purchased from France was divided into two separate territories. Land south of the thirty-third parallel constituted the Territory of Orleans (the present day state of Louisiana). The rest of the region made up the District of Louisiana and was placed under the jurisdiction of the Indiana Territory. The president appointed the government in the Orleans Territory which consisted of a governor and a thirteen member legislative council. A court system was established with the right to a jury trial limited to the superior court and to lower level capital cases. Only free white males could serve on such juries.<sup>4</sup>

There were twelve roll calls (see Table IX) associated with the formation of the Louisiana Territorial Government Bill. The provisions of this bill applied to both the Territory of Orleans and the District of Louisiana (In this narrative the term "Louisiana" refers to both areas unless Upper Louisiana, i.e. the District of Louisiana, is specifically mentioned). One set of roll calls concerned the degree to which the government was to be democratic. Another set dealt with the extent of jury trials for both criminal and civil cases and who could be considered qualified jurors. The third and final set of roll calls dealt with the territorial government.

This first set of votes on the democratic nature of the government included roll calls 3, 4, 6, and 9. Roll Call 3 was an unsuccessful effort to make the legislative council a

TABLE IX  
TERRITORIAL GOVERNMENT: VOTING BLOCS<sup>5</sup>

Senator	State	Party	Rollcalls											
			1	2	3	4	5	6	7	8	9	10	11	12
Adams	Mass.	Fed.	+	+	+	+	+	+	+	+	+	+	+	+
Olcott	NH	Fed.	+	+	0	-	-	+	+	+	-	+	+	+
Tracy	Conn.	Fed.	+	0	0	+	+	+	0	0	0	0	+	+
Plumer	NH	Fed.	+	+	+	+	+	+	+	+	0	+	-	-
Hillhouse	Conn.	Fed.	+	+	+	+	0	+	+	+	-	+	0	0
Stone	NC	Rep.	+	+	0	+	+	+	+	-	-	+	-	-
Anderson	Tenn.	Rep.	-	+	+	+	+	+	-	-	+	-	-	-
Cocke	Tenn.	Rep.	+	+	+	+	+	+	-	-	+	-	-	-
Venable	Va.	Rep.	0	+	+	+	-	+	-	-	-	-	-	-
Wells	Del.	Fed.	-	0	-	0	+	+	-	-	0	0	0	0
Worthington	Ohio	Rep.	+	+	+	+	+	+	-	-	+	0	-	-
Logan	Penn.	Rep.	-	0	-	+	+	-	+	-	0	-	-	-
Maclay	Penn.	Rep.	+	+	+	+	+	-	-	-	0	-	-	-
Breckinridge	Ky.	Rep.	+	+	+	+	-	-	-	-	-	-	-	-
Condit	NJ	Rep.	+	+	+	+	-	-	-	-	+	-	-	-
Smith, J.	Ohio	Rep.	+	+	+	+	-	-	+	+	-	-	-	-
Pickering	Mass.	Fed.	+	+	+	-	-	-	+	+	-	0	0	0
Smith, I.	Vt.	Rep.	+	0	0	-	-	-	0	0	0	0	-	-
Armstrong	NY	Rep.	0	+	-	-	0	-	-	-	-	-	0	0
Bradley	Vt.	Rep.	+	0	-	-	-	-	+	+	-	-	0	0
Franklin	NC	Rep.	+	+	-	-	-	-	-	-	-	-	-	-
Brown	Ky.	Rep.	+	-	-	-	0	-	+	0	-	-	-	-
Ellery	RI	Rep.	+	-	0	-	-	-	-	-	-	-	-	-
Nicholas	Va.	Rep.	+	-	-	-	-	-	-	-	0	-	-	-
Smith, S.	Md.	Rep.	0	-	-	-	-	-	-	-	-	-	-	-
Wright	Md.	Rep.	+	-	-	0	0	0	-	-	-	-	0	0
Baldwin	Ga.	Rep.	-	-	-	-	-	-	-	-	-	-	-	-
Dayton	NJ	Fed.	-	-	-	-	-	-	0	0	-	0	-	-
Jackson	Ga.	Rep.	-	-	-	-	-	-	-	-	-	-	-	-
Potter	RI	Rep.	-	-	-	-	-	-	-	-	-	-	-	-

Coefficient of Reproducibility: .936

## TABLE IX (Continued)

## KEY

Roll call 1: November 4, 1803. To adopt a resolution modifying the Third article of the convention between the United States and France for the cession of the province of Louisiana to the United States, said modified resolution stipulating that the President obtain from France such modifications of this Third article that will leave the United States at liberty to make such future arrangements for disposition of the territory of Louisiana. (Failed, 9-22)

Roll call 2: February 2, 1804. To amend the Louisiana Territorial Government Bill (S. 23), by striking out of the Eighth section providing that the residue of the province of Louisiana, shall retain the same name as heretofore, with the same form of government save only that the executive and judicial powers exercised by former government shall be transferred to a governor appointed by the President; and that the powers of a commandant of a post or district shall be vested in a civil officer. (Passed, 16-9)

Roll call 3: February 13, 1804. To amend S. 23, by redefining the requirements and method of electing representatives to the territorial legislature. (Failed, 13-13)

Roll call 4: January 24, 1804. To amend S. 23, by striking out of the Fourth Section that part which provides that the legislative powers shall be invested in the governor and persons to be called the legislative council, appointed annually by the governor. (Passed, 15-14)

Roll call 5: January 17, 1804. To amend S. 23, by striking out of the Fifth Section the words, "which are capital." (Failed, 11-16)

Roll call 6: January 16, 1804. To amend S. 23, by striking out of the Fourth Section which proposed that the legislative powers shall be vested in the governor, and 24 persons of the territory to be called a legislative council. (Failed, 12-18)

Roll call 7: February 7, 1804. To amend S. 23, by striking out of the proposed amendment the words "All free male white persons, who are housekeepers, and who shall have resided one year atleast in said territory, shall be qualified to serve as grand or petit jurors in the courts of said territory." (Failed, 10-18)

## TABLE IX (Continued)

Roll call 8: February 7, 1804. To amend S. 23, by adding a further amendment prescribing the method of selecting grand and petit jurors. (Passed, 21-7)

Roll call 9: February 10, 1804. To amend S. 23, by prescribing the time and method of electing representatives for a general assembly. (Failed, 5-19)

Roll call 10: February 18, 1804. To pass the final version of the Louisiana Government Bill. (Passed, 20-5)

Roll call 11: January 10, 1804. To adopt the second resolution, providing that in concurring in any act of legislation for imposing taxes upon the inhabitants of Louisiana without their consent, this Senate would assure a power unwarranted by the Constitution, and dangerous to the liberties of the people of the United States. (Failed, 4-22)

Roll call 12: January 10, 1804. To adopt the first resolution, stating that the people of the United States have never, in any manner, delegated to this Senate the power of giving its legislative concurrence to any act for imposing taxes upon the inhabitants of Louisiana without their consent. (Failed 4-22)

popularly elected body. Roll call 4 was an amendment which struck out the provision for the governor's appointment of a legislative council. Instead the territory was divided into several local districts, each of which elected two representatives, one of whom the governor selected for the legislative council. This particular motion passed the Senate, but was further modified in the final version of the bill. An earlier amendment, which failed, Roll Call 6, was an attempt to strike out the entire section giving power to the governor and the legislative council (appointed by the governor). The final effort at setting up a representative government, Roll Call 9, set out guidelines for a territorial assembly once the territory reached a specified population level. This proposal also did not pass. The final draft determining the form of the territorial government included a federally-appointed governor and legislative council. The citizens of Louisiana were to have only an indirect voice in their government.<sup>6</sup>

The next set of roll calls dealt with the jury system. In Spanish Louisiana, a jury trial was required only in the most serious criminal cases. As Louisianians now claimed the protections inherent in the American legal system, debate arose over who could be a juror and what types of cases could be subjected to jury trials. Roll Calls 5, 7, and 8 were the amendments involved. The supporters of Roll Call 5 sought to extend jury trials to all criminal cases, not just capital ones. This amendment failed, as did Roll

Call 7 which was an amendment to strike out the bill's requirements limiting jury duty to free, white landowners. If successful, the amendment would have allowed all free landowners, regardless of race to serve. The original section to which Roll Call 7 referred was passed as Roll Call 8. The final result was that in criminal cases only capital offenses required a jury (though both civil and criminal cases could involve a jury trial on the appellate level) and jury duty was restricted to free, white landowners.<sup>7</sup>

Roll calls 1, 2, 10, 11, and 12 were included in the miscellaneous category. Roll Call 1 was a motion to adopt a resolution modifying the third article of the Louisiana Purchase Treaty. The third article required the United States to respect the political and civil rights of those living in Louisiana and to bring the country into the union as soon as possible. The backers of this resolution wanted the article changed so that the federal government could take any action deemed necessary in disposing of the land and its people. France would not be able to accuse the United States of violating this particular article of the Treaty if such rights and privileges were not extended to the inhabitants of Louisiana. This early attempt to assume total control over the territory failed. Roll Call 10 was the final passage of the Louisiana Territorial Government Bill. The remaining roll calls, 2, 11, and 12, have aspects that merit special discussion.<sup>8</sup>

Senator John Quincy Adams of Massachusetts was the author of the resolutions making up roll calls 11 and 12. Throughout the debate on the structure of the governmental and judicial system of the territory, Adams was outspoken in his belief that Congress had no right to pass laws affecting the people of Louisiana without their consultation and that the people should enjoy the same political freedoms as any other American citizens. Both resolutions stated that the Senate did not have the authority to tax those residing in Louisiana without their consent. The Senate overwhelmingly defeated Adams's resolutions. Only three other Federalist senators voted with Adams. With one exception, the other Federalists present avoided voting on the issue. This exception was William Plumer, Adams's usual ally in the Senate, who was the only Federalist to vote against the resolutions. Plumer wrote that while he agreed in theory with Adams, the resolutions came at the wrong time and they would have little effect on the attitudes of the rest of the senators.<sup>9</sup>

Roll Call 2 concerned the nature of the territorial government for Upper Louisiana. This amendment successfully struck out the section in which the government consisted of a presidentially-appointed governor and judges. The governor, with the advice of the judges, ruled with the same wide-sweeping powers the previous Spanish governor had held over the area. The ultimate disposition of Upper Louisiana was included in the final version of the Territorial



Government Bill. Upper Louisiana was renamed the District of Louisiana and the government of the Indiana Territory was to administer the District. The laws governing the Orleans Territory, rather than those of the Indiana Territory, were to apply in the District. The citizens of the District, most of whom were American immigrants, were legally on the same footing as residents of the Orleans Territory. The bill attaching Upper Louisiana to Indiana did not specifically mention two important issues: slavery and participation in the government of Indiana Territory. As the laws of Orleans applied to residents of the District, they were able to keep their slaves and immigrants could bring their slaves with them though the government of Indiana Territory was officially anti-slavery. Also, as the residents of Orleans had no direct participation in territorial government, the District would have no say in the government of Indiana.<sup>10</sup>

One roll call in particular, though it did not statistically correlate with the other roll calls, merits examination.<sup>11</sup> This roll call involved whether the Orleans Territory should have a non-voting delegate to Congress, as the other United States' territories did. On this particular issue, those senators scaling in both the "Support" and "Oppose" blocs voted against the measure and those in the "Moderate" bloc voted for the non-voting delegate. Everett S. Brown, in his book Constitutional History of the Louisiana Purchase, uses this one vote to

show that "The liberal tendencies of the West are seen in the vote on this measure" because five of the six senators from western states voted for it. According to Plumer's record of the debates, it was true that western senators believed that it was undemocratic for Louisiana not to have a representative in Congress. Those senators opposed to all other measures for democratic government in the territory also opposed this measure from the belief that the citizens were not ready for any sort of representative government. Those Federalist senators supporting the amendments for a liberal territorial government, while in favor of the idea of a delegate, opposed the amendment because the elected delegate would represent an unelected government. The delegate would represent the governor and the legislative council, not the people of the territory. As the roll calls show, while western senators were more supportative of a "liberal" (democratic, representative) territorial government than many other Republicans, more support was present among New England Federalists.<sup>12</sup>

There were three distinct voting blocs (see Table IX) discernible from the roll calls. Those senators in the "Support" bloc wanted an elective territorial legislature and few restrictions on the structure of the jury system. Those in the "Oppose" bloc voted for a federally-appointed governor and legislature. Also they wanted restrictions on who could serve on juries and on what cases qualified for a jury trial. Senators in the "Moderate" bloc voted for an

elective assembly, but for restrictions on the juries.

An inspection of the backgrounds of the senators (see Tables X-XIII) reveals some interesting facts about the various voting blocs. Party was the principal factor in determining voting behavior. Within the Republican party, section was the primary factor. New England Federalists were more likely to favor a "liberal" (democratic, representative) territorial government. Western and Mid-Atlantic senators were more likely to take moderate positions for a "liberal" government with some restrictions applicable. Finally Southerners and New England Republicans tended to vote for an undemocratic, restrictive territorial government.

These party and sectional differences pose some interesting questions. New England Federalists supported the rights of the Louisianians, though their party had little to gain from a territory (and eventually a state) which was sure to favor Southern and Western Republicanism, rather than New England Federalism. Southern and New England Republicans were alienating an area which could prove to further the political strength of the Republican party and which might support Southern plantation agricultural interests. Finally Western senators supported restrictive measures which if suggested for their own states, they would have vehemently opposed.

As seen in their voting patterns, the Federalist senators from New England voted for a more "liberal"

**TABLE X**  
**TERRITORIAL GOVERNMENT: PARTY**  
**ALIGNMENTS**

	<b>Federalist</b>	<b>Republican</b>
<b>Support</b>	62.5% (5)	0.0% (0)
<b>Moderate</b>	25.0% (2)	50.0% (11)
<b>Oppose</b>	12.5% (1)	50.0% (11)
<b>Total</b>	100.0% (8)	100.0% (22)

**TABLE XI**  
**TERRITORIAL GOVERNMENT: SLAVE/  
 FREE STATE ALIGNMENTS**

	Slave	Free
Support	0.0% (0)	29.4% (5)
Moderate	46.2% (6)	41.2% (7)
Oppose	53.8% (7)	29.4% (5)
<b>Total</b>	<b>100.0% (13)</b>	<b>100.0% (17)</b>

See Table IV for list of Slave/Free states.

**TABLE XII**  
**TERRITORIAL GOVERNMENT: SECTIONAL ALIGNMENTS**

	New England	Mid-Atlantic	South	West
Support	50.0% (5)	0.0% (0)	0.0% (0)	0.0% (0)
Moderate	20.0% (2)	66.7% (4)	25.0% (2)	83.3% (5)
Oppose	30.0% (3)	33.3% (2)	75.0% (6)	16.7 (1)
<b>Total</b>	<b>100.0% (10)</b>	<b>100.0% (6)</b>	<b>100.0% (8)</b>	<b>100.0%(6)</b>

See Table IV for list of states in sections.

TABLE XIII  
TERRITORIAL GOVERNMENT: REPUBLICAN PARTY  
SECTIONAL ALIGNMENTS

	New England	Mid-Atlantic	South	West
Support	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
Moderate	25.0% (1)	75.0% (3)	25.0% (2)	83.3% (5)
Oppose	75.0% (3)	25.0% (1)	75.0% (6)	16.7% (1)
<u>Total</u>	<u>100.0% (4)</u>	<u>100.0% (4)</u>	<u>100.0% (8)</u>	<u>100.0%(6)</u>

government than did their fellow senators. Most of their arguments for a representative territorial government were based on their personal political beliefs that Louisiana deserved the same treatment as the other states and territories of the United States. Of the senators in the "Support" bloc, only Adams and Hillhouse contributed to the debate. Hillhouse believed that the people of Louisiana were guaranteed a representative government under the terms of the Purchase Treaty and ought to have such a territorial government. He agreed that the time might not have been right for introduction of a jury system into a legal organization in which jury trials were mostly unknown, but such matters should be left up to a freely elected territorial legislature to decide.<sup>13</sup> Speaking on the last day of debate before the final passage of the Louisiana Territorial Government Bill, John Quincy Adams spoke at length against the measure:

I have from the beginning been opposed to it [the bill]....It is forming a government for that people without their consent and against their will....The people of that country have given no power or authority to us to legislate for them....This bill contains arbitrary [sic] principles...repugnant to our Constitution....We have not the necessary information to pass a law containing the great fundamental principles of government-In thus passing this bill we commit an act of practical tyranny.<sup>14</sup>

On the issue of territorial government, as with that of slavery, Adams continued his stance that the Senate had no right to dispense with the rights of the Louisianians without their consent.



Though none of the Federalist senators mentioned it explicitly, their underlying support for a "liberal" government in Louisiana might have been to put their party in a more favorable light in Louisiana and the other western territories. The western frontier, especially Louisiana, attracted American settlers seeking new economic and political opportunities. In a series of letters to Jefferson, Governor Claiborne wrote that many Federalists had moved to Louisiana and he was having difficulty finding Republicans in the local populace to serve on the Legislative Council. He feared that as the Federalist party declined in the East, its members might seek a power base in the West. Also in a letter to John Breckinridge, New Orleans-resident James Brown, brother of Senator John Brown, wrote that many local politicians had been appointed to the government because they were Republicans, but turned out to have Federalist leanings.<sup>15</sup> Though the Federalist party never established itself in Louisiana, conflicts between Claiborne and the local residents during 1803-1804 presented an opportunity for recently-arrived Americans with questionable political loyalties to attain local prominence by opposing Claiborne.<sup>16</sup>

Despite the differences in their voting patterns, two Federalist senators left similar comments as to why they did not vote with their fellow Federalists. Timothy Pickering continued his opposition to the views of the majority of the Federalists present. He stated in the debates that

Louisiana "is a purchased province, and as such we must govern it."<sup>17</sup> He also said that the people of the territory were "too ignorant" to appreciate or participate in a "free government."<sup>18</sup> His position in the "Moderate" bloc is due to his more moderate voting pattern as reflected in his final comments on the bill: "We are bound by the treaty to extend protection to the people of that country, and secure to them their rights and priveledges [sic]...[but we] must consider and govern them as a colony."<sup>19</sup> Fellow Federalist, Jonathan Dayton justified his votes saying: "That Country is a purchased territory and we may govern it as a conquered one."<sup>20</sup> Pickering's constant personal and political bickering with Adams and the others of the younger generation of Federalists might have been an underlying inducement to vote against his fellows rather than preserve party unanimity.<sup>21</sup> Dayton sided with his usual cohorts from Georgia. As mentioned earlier, that association might have had its influence on his votes.

Southern and New England Republican senators present in the "Oppose" bloc centered their objections to a "liberal" government on the local populace's inexperience with the American form of government. Senator James Jackson, as on the slavery issue, did not hesitate to voice his opinion of the Louisianians saying, "The inhabitants of Louisiana are...too ignorant to elect a legislature-they would consider jurors a curse to them."<sup>22</sup> Samuel Smith of Maryland agreed that "those people are absolutely incapable

of governing themselves, of electing their rulers or appointing jurors. As soon as they are capable and fit to enjoy liberty and a free government I shall be for giving it to them."<sup>23</sup> Wilson C. Nicholas of Virginia and Robert Wright of Maryland concurred with the comments of the other two senators. A clue as to why Southern senators voted against a "liberal" territorial government, an act sure to alienate potential Republican support among the Louisianians, can be found in one of Jackson's statements. While discussing the idea of a "liberal" government for Upper Louisiana he stated: "I never wish to see our people go beyond the Mississippi. We ought not to give them such a government as will afford them protection in their settlements. If you permit the settlement of that country, you will depreciate the value of your public lands and destroy the western states."<sup>24</sup> Other Southern senators mirrored his concern about competition from the new territories west of the Mississippi. During the early 1800s the area around New Orleans was the most cultivated in the territory. Further settlement north and west of this settled region would soon provide competition for Southern planters. A "restrictive" government could slow the rate of growth of Louisiana more effectively than a "liberal" one. For these Southerners, economic competition was more important than in winning converts to Jeffersonian Republicanism in Louisiana.<sup>25</sup>

The senators from the West tended to be more moderate

in their views on territorial government. For them, a freely elected assembly was more important than a perfect legal system. William Cocke of Tennessee spoke most eloquently on the ties of the western states to Louisiana:

The people of that country are free-let them have liberty and a free government-This bill...is tyrannical....The government of Louisiana has been compared to other territorial governments, as Mississippi-but this is wrong. This is an original system founded on new principles....I know that people are ignorant, but ignorant people will always elect learned and wise men to represent them, they know the necessity of it.-I love and venerate these people-they live in the west.<sup>26</sup>

His fellow senator from Tennessee, Joseph Anderson, concurred adding that "it [the bill] is a system of tyranny, destructive of elective rights-We are bound by treaty, and must give that people, a free elective government....I know the settlement of Louisiana will materially injure Tennessee-it will injure all the western states-still we must give them a constitutional government."<sup>27</sup> The other western senators echoed these beliefs. John Smith of Ohio, who owned land in Louisiana, disagreed with Jackson's views on western immigration, saying that further settlement of Louisiana was inevitable, regardless of any laws.<sup>28</sup> John Breckinridge of Kentucky and Thomas Worthington of Ohio also agreed that a "liberal" government was best for Louisiana.<sup>29</sup> The motivation for the western senators seems forthright. As the West had ties for over twenty-five years with Louisiana, they desired a form of government similar to that found in the western states. Finally American emigrants to

Louisiana went west for the same reasons the senators had moved west years earlier: new lands, economic opportunities, and an that intangible right of being "free and independent" of restrictive society and government.

As with the resolution of the slavery issue in Louisiana, the type of territorial government given the territory brought vigorous protests from the inhabitants. Armed with petitions from the aggrieved citizens, lobbyists from the territory went to Washington, D. C. to persuade Congress to liberalize the territorial government bill. Their efforts met with success in March 1805 when a new act passed in the Senate. This act extended to the Territory of Orleans (another bill also did much the same for Upper Louisiana) all rights due under the Northwest Ordinance and the Mississippi Territory. An elective assembly of twenty-five members was provided for. Finally when the population reached sixty thousand a government could be formed and apply for admission to statehood. In the only roll call relating to this bill, on an amendment which would have made it even more democratic and representative, the New England Federalists favored the measure and the other senators opposed it. Statehood for Louisiana was delayed, though it met population requirements, due to political considerations concerning the admission of a new southern slave state. The territory finally became a state in 1812.<sup>30</sup>

The decisions made by the senators in March 1804 would have long ranging consequences. John Quincy Adams commented

on this possibility in his speech against the bill: "This is a Colonial system of government-It is the first the United States have established-It is a bad precedent-the U.S. in time will have many colonies-precedents are therefore important."<sup>31</sup> The next large territorial annexation of a foreign country (Florida, Texas, and the Mexican Cession all had a substantial number of American settlers present when annexed) settled the issue of territorial status. In 1898, the United States acquired territory from Spain as a result of the Spanish-American War. The inhabitants of the territories demanded a "liberal" government and rights as American citizens. The Insular Decisions of the Supreme Court in 1900 stated that territory annexed by the United States did not automatically have constitutional protections extended to its residents. Only certain fundamental civil rights could be applied. The history of the relationship between the states and territories, including the precedent set in the case of Louisiana, figured prominently in the court's pronouncements.<sup>32</sup> Few senators present that spring of 1804 in Washington could have realized the far-reaching effects of the decisions they arrived at.

## ENDNOTES

<sup>1</sup>Thorpe, Federal and State Constitutions, p. 957; Robinson, Slavery in American Politics, pp. 380-382.

<sup>2</sup>Dargo, Jefferson's Louisiana, pp. 11-17.

<sup>3</sup>Brown, Constitutional History, pp. 90-92.

<sup>4</sup>Dargo, Jefferson's Louisiana, p. 6; Annals, 1st Session, pp. 1293-1300.

<sup>5</sup>United States Congressional Rollcall Voting Records, 1789-1984. Inter-University Consortium for Political and Social Research #0004. Senators Adams thru Hillhouse were collapsed into the "Support" bloc due to their similar voting pattern. Likewise Stone-I. Smith blocs were combined into the "Moderate" bloc. Finally Brown-Potter make up the "Oppose" bloc.

<sup>6</sup>Annals, 8th Cong., 1st Session, pp. 227-254.

<sup>7</sup>Annals, 8th Cong., 1st Session, pp. 227-254; Plumer, Memorandum, p. 140.

<sup>8</sup>Annals, 8th Cong., 1st Session, pp. 309-310.

<sup>9</sup>Annals, 8th Cong., 1st Session, pp. 228-229; Plumer, Memorandum, p. 104.

<sup>10</sup>Annals, 8th Cong., 1st Session, p. 245; Plumer, Memorandum, pp. 138-141; The gist of the discussion in the Senate concerning attaching Louisiana to Indiana administratively, but not legally was that Upper Louisiana should not be subjected to the laws of Indiana Territory, which prohibited slavery and allowed for a more democratic system of government.

<sup>11</sup>In Guttman scaling, votes under consideration are statistically compared to one another using a statistical formula known as Yule's Q. The result determines the correlation of the roll calls to each other. A perfect Q value is 1.0. For this thesis a minimum level of 0.70 correlation is used. This particular roll call value fell below this level and was eliminated as it did not have a statistical relation to any other roll call in the series.

<sup>12</sup>Brown, Constitutional History, pp. 104-105; Plumer, Memorandum, pp. 107-109.

<sup>13</sup>Plumer, Memorandum, p. 134.

<sup>14</sup>*Ibid.*, pp. 143-145.

<sup>15</sup>The Federalist party in the West was small and ineffectual, but very vocal in frontier politics. The party could stand to benefit politically from attacking a Republican sponsored restrictive territorial government; William C. C. Claiborne to Thomas Jefferson, 30 August 1804, Jefferson Papers; Territorial Papers of the United States of America, Vol. 9: The Territory of Orleans, 1803-1812, ed. Clarence Edwin Carter (Washington, D. C.: United States Government Printing Office, 1939), pp. 248-258, 380.

<sup>16</sup>Dargo, Jefferson's Louisiana, pp. 30-33.

<sup>17</sup>Plumer, Memorandum, p. 107.

<sup>18</sup>*Ibid.*, p. 111.

<sup>19</sup>*Ibid.*, p. 137.

<sup>20</sup>*Ibid.*, p. 136.

<sup>21</sup>Adams, Memoirs, pp. 288-289; The mutual dislike between Adams and Pickering started as a result of their race for the Senate in 1803. Both senators found themselves on opposite sides in the Senate more often than as allies. This situation might have unconsciously influenced Pickering more than he realized.

<sup>22</sup>Plumer, Memorandum, p. 110.

<sup>23</sup>*Ibid.*, p. 111.

<sup>24</sup>*Ibid.*, pp. 135-136.

<sup>25</sup>Dargo, Jefferson's Louisiana, pp. 6-9. The figures Dargo cites from Louisiana census records show a dramatic increase in both population and development in Louisiana following the American occupation; Everett S. Brown in Constitutional History of the Louisiana Purchase very briefly discusses the economic competition between the developing West and South, and the mutual interests of the West and North. Congressman Nahum Mitchell in March 1804 wrote that there was some discussion regarding these sectional interests on Capitol Hill. Brown notes that after the War of 1812, the west and north collaborated on issues of benefit to both sections. In light of the roll calls, there does not seem to have been any conscious cooperation between the New England Federalists and Western senators. In



particular, the split in the Republican party pitted New England Republicans against Mid-Atlantic and Western Republicans. Brown, Constitutional History, p. 149.

<sup>26</sup>Plumer, Memorandum, pp. 108-109.

<sup>27</sup>Ibid., pp. 111, 136.

<sup>28</sup>Ibid., p. 135.

<sup>29</sup>Ibid., pp. 134, 138.

<sup>30</sup>Brown, Constitutional History, pp. 147-151, 161; Annals, 2nd Session, pp. 60-61; Dufour, Ten Flags, pp. 139-142; The District of Louisiana (Upper Louisiana) was renamed the Territory of Louisiana and the territorial government was modified so that power resided in a federally appointed governor and three judges. This scheme was similar to one proposed by James Jackson in 1804 which was defeated by other senators as being too dictatorial. There was no debate on the bill this time as there had been in 1804. Annals, 8th Cong., 2nd Sess., pp. 1684-1686.

<sup>31</sup>Plumer, Memorandum, p. 145.

<sup>32</sup>Earl S. Pomeroy, The Territories and the United States, 1861-1890: Studies in Colonial Administration (Philadelphia, Pennsylvania: University of Pennsylvania Press, 1947), pp. 1-5; Edward J. Berbasse, The United States in Puerto Rico, 1898-1900 (Chapel Hill, North Carolina: University of North Carolina Press, 1966), pp. 78-109, 190.

## CHAPTER VI

### CONCLUSION

Subjecting the legislation in the Senate pertaining to Louisiana in 1803-1804 to roll call analysis exposes some interesting voting patterns not readily discernible from the recorded debates. Those senators who participated in the debates tended to vote in accordance with their rhetoric, as recorded in contemporary records. Their voting bloc positions, together with those of the senators who did not leave any written record, form intriguing sectional and factional divisions. Such authors as Everett S. Brown and Donald L. Robinson provide conclusions based only on those few senators who took an active role in the debates. Roll call analysis of individual and comprehensive issues relating to Louisiana give a clearer picture of the political schisms in the Senate at this time.

The legislation dealing with the ratification of the Louisiana Purchase Treaty and the Territorial Government Bill show that party was the primary determinant of voting behavior. The Republican party united on those issues that concerned all its members. The Federalists showed signs of dissension as the new generation of Federalist senators were more cooperative and moderate than their hard-line

predecessors. This dissension grew worse as time passed. By 1807, two of the leading moderate Federalists, Adams and Plumer, had converted to Jeffersonian Republicanism. These findings bear out the conclusions of David Hackett Fischer concerning the split between older and younger Federalists. The issues of slavery and territorial government illustrated that the Republican party could split over issues that affected the various sections in different ways. Senators from free states were more likely to oppose slavery than were their slave state bretheren. Unlike in the years to follow, Southern senators were able to criticize the institution of slavery, while voting in their section's interests. The territorial government debate demonstrates that the Western Republicans tended to be more interested in extending democratic, representative government to the western frontier than Northern and Southern Republicans. Ironically, the Federalists, usually associated with aristocratic and elitist government, went even further in support of a free government for Louisiana. The roll calls show that while political party was still the primary factor in determining voting behavior, sectional and slave/free state affiliations were growing in importance during this time period.

The Senate made many decisions in 1803-1804 affecting later territorial acquisitions. In subsequent years, slavery in the territories became a major issue. The status of territories in relation to the states continued to be

debated until the controversy was finally decided in the Supreme Court decisions of 1900. The purchase and disposition of Louisiana highlighted questions that dealt with the very nature of American political philosophy and party politics in the United States.

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## VITA 2

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